

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

QUESTIONS FROM SENATOR FEINSTEIN

Recusals

1. Senator Leahy asked you whether you would recuse yourself from DOJ actions against or investigations of Donald Trump or his finances. You responded: “If merely being a supporter of the President’s during the campaign warranted recusal from involvement in any matter involving him, then most typical presidential appointees would be unable to conduct their duties. I am not aware of a basis to recuse myself from such matters.” I asked you a similar question, whether you would recuse from deciding whether to bring prosecutions in connection with Russian hacking of the election, and you responded, “I am not aware of a basis to recuse myself from such matters.”

You were not merely “a supporter of the President’s during the campaign.” You were the first senator to expressly support him, almost one year ago. You appeared with him at multiple rallies. You spoke at the Republican National Convention. You were an active surrogate for Mr. Trump’s campaign. The Washington Post has [written](#) that “After Sessions became one of the first members of Congress to endorse Trump this February, he became an adviser on almost every major decision and policy proposal Trump made during the campaign,” including chairing his National Security Advisory Committee. It has also written that you assisted with the selection of Vice President Pence. The Trump campaign website states: “Senator Sessions has been one of Mr. Trump’s most trusted policy advisers, assisting him in making selections.” All of this goes far beyond what we are used to seeing from political appointees.

a. Please state for the record:

- (1) all Trump campaign events that you attended or participated in;**

RESPONSE: Attached is a list (Appendix A) of all campaign events that I attended of which I have records.

- (2) all capacities in which you advised the President-elect during the campaign; and**

- (3) every specific decision made during the campaign on which you advised the President-elect.**

RESPONSE to (a)(2) – (a)(3): The President sought my input on a number of matters on which I have taken very public positions as a Senator; however, he had many advisors and it would be impossible for me to know any specific decisions that were made as a result of my

advice. I endorsed him in part because he was a leader advocating for issues I supported and believed in.

- b. In light of your efforts as a campaign surrogate on the Trump campaign, will you reconsider your stated intention not to recuse yourself from matters before the Department involving Mr. Trump, his campaign, or connections to Russia?**

RESPONSE: I cannot offer an opinion on recusal as to this, or any other issue, without knowing the particular facts and circumstances that would need to be considered. There is no opinion I could provide that would fit in every instance. 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. Is there any scenario under which you would find it inappropriate to handle a matter before the Department involving Mr. Trump?**

RESPONSE: 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. 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. Recusal, of course, is one option.

2. In your hearing before the Committee, you pledged to recuse yourself from involvement in “those kind of investigations that involve Secretary Clinton and that were raised during the campaign or could otherwise be connected to it.”

You were announced in March 2016 as the Chair of the Trump Campaign’s National Security Advisory Committee. In a later announcement from a month before the election, the Trump campaign stated the campaign’s “National Security Advisory Council” had already included you, General Mike Flynn, and others.

So far you have refused to commit to recusing yourself from involvement in any investigations related to the Russian influence on the 2016 U.S. elections to benefit President Trump. You testified that you *still* have not reviewed the Intelligence Community’s classified and unclassified assessments on these Russian activities and intentions. The media has reported that intelligence agencies are examining links between President Trump and his senior advisors and the Russian government. For example, reports state that the intelligence agencies are examining contacts between President Trump’s National Security Adviser Michael Flynn, who served with you on the campaign’s national security team, and Russian government officials.

I want to give you an opportunity to reconsider your answer on recusal, especially in light of the Washington Post’s editorial on January 24, 2017: “Mr. Sessions played a key role in the

president's campaign. At the least, Mr. Sessions would raise the appearance of a conflict if he made law enforcement decisions related to that campaign. He should commit to recusing himself now."

- a. **Given the extent to which you were publicly identified with President Trump's political campaign and national security advisory council, will you commit to recuse yourself from involvement in any investigations into ties between President Trump, his businesses, or his campaign aids and the Russians?**
- b. **Will you commit to recuse yourself from involvement in any investigations into Mr. Flynn's ties to the Russians?**
- c. **Would you commit to recuse yourself from involvement in any investigations related to the Trump's campaign's contacts with the Russians?**

RESPONSE to (a) – (c): I cannot offer an opinion on recusal as to this, or any other issue, without knowing the particular facts and circumstances that would need to be considered. There is no opinion I could provide that would fit in every instance. 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.

- d. **If not, please explain the difference between investigations involving candidate Hillary Clinton (for which you said you would recuse yourself), and investigations into the Trump campaign and candidate Donald Trump (for which you have said you are unaware of a basis to recuse)?**

RESPONSE: Prior to being nominated, I voiced publicly my opinion with respect to certain issues relating to the investigations involving Secretary Clinton. I am not aware of any investigations into the Trump campaign, and having been privy to no such information on which to opine, I have taken no position publicly or privately. As I have previously stated, each case depends on the facts and circumstances. 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.

- e. **If the Department ethics officials recommended that you recuse yourself from a matter involving President Trump, his businesses, or his associates, would you commit to follow their recommendation?**

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

- f. **Do you doubt that the Department of Justice's National Security Division and the Deputy Attorney General are adequately equipped to handle such an investigation without the involvement of the Attorney General?**

RESPONSE: Certainly, the Justice Department is full of talented and experienced attorneys and I will endeavor to utilize them in the most effective ways possible to aid in the fair administration of justice. The question of recusal should not turn on whether others in the Department are equipped to handle an investigation without my involvement. As the leader of any office or business, you hope to surround yourself with staff that can handle issues in your absence; however, the confidence that you have in your staff is not a sufficient reason, in and of itself, for a constitutional officer to step away from a matter.

- g. Your written testimony regarding what you would recuse from is substantially narrower than how you testified at your hearing.**

At the hearing, you said that you will recuse from “those kind of investigations that *involve* Secretary Clinton and that *were raised during the campaign or could otherwise be connected to it.*”

Your written response stated you would recuse “from any investigation *of* Secretary Clinton or the Clinton Foundation.”

Do you stand by your original statement, or are you changing the answer you gave in your committee hearing?

RESPONSE: I stand by both statements and see no inconsistency in them.

3. 28 C.F.R. § 45.2 prohibits a DOJ employee from participating in a criminal investigation or prosecution if he has a personal or political relationship with any person or organization that is the subject of the investigation. Political relationship is defined in the regulation as meaning “a close identification with an elected official, a candidate (whether or not successful) for elective, public office, a political party, or a campaign organization, arising from service as a principal adviser thereto or a principal official thereof.”
- a. You have a close political relationship with President Trump, as one of his major campaign surrogates. Do you believe 28 C.F.R. § 45.2 requires you to recuse yourself? If not, why not?**
- b. If not, in what scenario would a political relationship make it improper for an Attorney General to participate in an investigation?**

RESPONSE to (a) – (b): As I previously stated, if a matter arose in which I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. Such a consultation would necessarily include careful evaluation of the statute in question and the factors it lists, in light of relevant facts and circumstances that are established at the time. It would not be appropriate to make this determination in a vacuum and without the expertise and experience of Department attorneys.

4. The DOJ has a general standard that an employee shall endeavor to avoid any actions creating the appearance that the employee is violating the Department's ethical standards, 5 C.F.R. § 2635.101(b)(14).

- a. Do you maintain that participating in an investigation into a person for whom and with whom you campaigned closely and on whose campaign you performed a leadership role does not create the appearance of violating DOJ ethical standards, or create the appearance of impropriety?**

RESPONSE: 5 C.F.R. § 2635.101(b)(14) states:

Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

As I previously stated, if a matter arose in which I believed my impartiality might reasonably be questioned, I would consult with Department ethics officials regarding the most appropriate way to proceed. Such a consultation would necessarily include careful evaluation of the statute in question and the factors it lists, in light of relevant facts and circumstances that are established at the time. It would not be appropriate to make this determination in a vacuum and without the expertise and experience of Justice Department attorneys.

5. In my questions for the record, I asked you if you had reviewed either the classified or unclassified assessments by the Intelligence Community regarding Russian activities and intentions during the recent U.S. elections. Your response, which I found surprising, was "I have not reviewed their assessments."

- a. Did you receive specific directions or advice not to review these assessments?**

RESPONSE: No.

- b. If you did receive such direction or advice, please tell us the sum and substance of that advice.**

RESPONSE: See response to 5(a).

- c. If you did receive such direction or advice, please identify each person who gave you such advice or direction.**

RESPONSE: See response to 5(a).

- d. If there is another reason you have not reviewed these assessments—which were widely reported on and, in my belief, represent a truly dangerous threat to our democracy—please discuss.**

RESPONSE to (a) – (d): If I am fortunate enough to be confirmed as Attorney General, I will have the resources of the Department, including experienced personnel, at my disposal to rely on in forming opinions on matters of this significance. Without those resources available to me, and because some aspect of this matter may come before the Department, I do not believe it would be appropriate for me to comment at this time or to endeavor to reach any conclusion on this or other matters being discussed in the media.

The unclassified assessment begins: “Russian efforts to influence the 2016 US presidential election represent the most recent expression of Moscow’s longstanding desire to undermine the US-led liberal democratic order, but these activities demonstrated a significant escalation in directness, level of activity, and scope of effort compared to previous operations.”

The unclassified assessment continues: “We also assess Putin and the Russian Government aspired to help President-Elect Trump’s election chances when possible by discrediting Secretary Clinton and publicly contrasting her unfavorably to him.”

- e. Please review the rest of the unclassified assessment, and state whether you have done so.**
- f. Please review the classified assessment, and state whether you have done so.**
- g. Please state for each individual finding of the unclassified assessment whether you agree or disagree:**

“Russian efforts to influence the 2016 US presidential election represent the most recent expression of Moscow’s longstanding desire to undermine the US-led liberal democratic order, but these activities demonstrated a significant escalation in directness, level of activity, and scope of effort compared to previous operations.”

“We assess Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the US presidential election. Russia’s goals were to undermine public faith in the US democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency. We further assess Putin and the Russian Government developed a clear preference for President-elect Trump. We have high confidence in these judgments.”

“We also assess Putin and the Russian Government aspired to help President-elect Trump’s election chances when possible by discrediting Secretary Clinton and publicly contrasting her unfavorably to him.”

“We assess with high confidence that Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the US presidential election, the

consistent goals of which were to undermine public faith in the US democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency. We further assess Putin and the Russian Government developed a clear preference for President-elect Trump. When it appeared to Moscow that Secretary Clinton was likely to win the election, the Russian influence campaign then focused on undermining her expected presidency.”

- h. Is there any assessment in the unclassified assessment with which you disagree? If so, please identify it.**

RESPONSE to (e) – (h): If I am fortunate enough to be confirmed as Attorney General, I will have the resources of the Department, including experienced personnel, at my disposal to rely on in forming opinions on these statements as well as their legal ramifications. Without those resources available to me, and because some aspect of this matter may come before the Department, I do not believe it would be appropriate for me to attempt to form any fixed opinions on these matters or to comment on these matters at this time.

6. I also asked you whether, as Attorney General, you would continue defending the position that the Department of Justice has taken since 2013 in a lawsuit the Department filed against the State of Texas—that the State’s voter ID law violates the Voting Rights Act. You responded that my question “implicated an ongoing legal matter” and therefore that it would be “inappropriate” for you to comment. Just after President Trump’s Inauguration on Friday, however, the Justice Department requested to postpone a hearing initially scheduled in the case for Tuesday “[b]ecause of the change in administration.”

- a. Do you believe that the Justice Department’s requested delay in the Texas voter ID case leaves open the door for abandoning the position the Department has taken since 2013—that the Texas law violates the Voting Rights Act? If so, will you commit to continue defending the Department’s longstanding position if confirmed?**

RESPONSE: I have had no discussions with the outgoing leadership of the Department of Justice about their decision in this matter or the reasoning behind it. I cannot comment or make commitments about any ongoing legal matter involving the Department. This standard—refusing to opine on pending legal matters—has been adopted by previous nominees for Attorney General and I believe it is wise to follow this precedent.

7. In my questions for the record, I asked you about the Justice Department’s duty to investigate voter ID laws and the disproportionate impact such laws have on minority voters. In response, you noted that “The Supreme Court held in *Crawford v. Marion County Election Board* that voter identification laws are neither per se unconstitutional, nor do they necessarily violate the Voting Rights Act.”

- a. Where in the *Crawford* opinion do you identify a holding that Voter ID laws do not necessarily violate the Voting Rights Act?**

RESPONSE: My response should have read as follows: “As the Supreme Court held in *Crawford v. Marion County Election Board* voter identification laws are not per se unconstitutional. Nor do they necessarily violate the Voting Rights Act.” In other words, the subject of the sentence was intended to be “voter identification laws” and not the *Crawford* decision.

- b. Do you agree that no question under any section of the Voting Rights Act was presented to the Supreme Court or decided in *Crawford*?**
- c. Do you agree that no question of the legality of Voter ID laws under Section 2 of the Voting Rights Act was even litigated at any level in *Crawford*?**

RESPONSE to (b) – (c): See response to 7(a).

- d. The Department of Justice that you have been nominated to lead has successfully challenged voter ID provisions such as the very restrictive voter ID law that Texas passed in 2013. Please detail the kinds of factors you would look at to determine whether a voter ID law runs afoul of the Voting Rights Act, and in determining whether an enforcement action is appropriate.**

RESPONSE: I cannot comment or make commitments about any ongoing legal matter currently involving the Department. This standard—refusing to opine on pending legal matters—has been adopted by previous nominees for Attorney General and I believe it is wise to follow this precedent.

Abortion and Punishment

- 8. Senator Blumenthal submitted to you a Question for the Record related to President Trump’s comment during the campaign that women who have abortions should be punished. The President later tried to walk back his comment.

Senator Blumenthal asked you, “Do you think that women who have abortions should be punished?” You did not answer his question. You responded by pointing to how the Supreme Court has interpreted the Constitution.

In addition, Senator Blumenthal asked what you would do to ensure that women who have abortions are not prosecuted or criminally punished. You answered: “I will take no enforcement actions that are unauthorized by federal law. Individuals who seek abortions and abortion providers who comply with federal laws should not be subject to prosecution or criminal punishment.”

- a. Would you support a change in criminal law to punish women who have abortions? Please answer yes or no.**

RESPONSE: Congress is charged with making laws and with deciding whether to criminalize particular behavior, in accordance with the Constitution. As Attorney General, my job will be to enforce the laws duly passed by Congress.

- b. Should women who receive abortions be punished by means outside of the criminal justice system? For example, under civil law? Please answer yes or no.**

RESPONSE: This is a policy decision that must be decided by Congress.

9. A news article last week reported that President Trump’s Transition Team was meeting with career staff at the White House about their intent to cut spending in the federal government, including by eliminating certain programs. (THE HILL, January 19, 2017) The Transition Team is reportedly relying on a document entitled *Blueprint for Balance: A Federal Budget for 2017*, published by the Heritage Foundation, to outline cuts to programs.

In the *Blueprint for Balance*, one of the recommendations is to eliminate grants provided under the Violence Against Women Act (VAWA) because “these services should be funded and implemented locally. Using federal agencies to fund the routine operations of domestic violence programs that state and local governments could provide is a misuse of federal resources and a distraction from concerns that are truly the province of the federal government.”

VAWA was first passed in 1994 to address the need for a national response to develop and strengthen services for victims of domestic violence, dating violence, sexual assault and stalking. VAWA now provides grant resources to service providers working directly with victims, many of them to help victims pursue justice under the law against their perpetrators. Elimination of these programs would return victims to a time when inadequate and irregular local services prevented many of them from living safely and rebuilding their lives.

At your hearing, you testified that while you did not vote for reauthorization in 2013, you have twice voted to support the Violence Against Women Act. You testified, “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.”

- a. Do you agree with the Heritage *Blueprint for Balance*’s recommendation to eliminate VAWA grants? If not, why?**
- b. Do you agree with the Heritage *Blueprint for Balance*’s rationale for eliminating VAWA grants that using federal funding for domestic violence programs is a “misuse of federal resources and a distraction from concerns that are truly the province of the federal government”?**
- c. Given your support for VAWA prior to its 2013 reauthorization, if confirmed, what steps would you take to ensure that the President understands the importance of VAWA programs? What steps would you take to ensure that DOJ’s budget request reflected these programs?**

RESPONSE to (a) – (c): I have not reviewed the report in question, nor have I been a participant in the meetings referenced above. As I have previously stated, if I am confirmed, I will ensure that VAWA programs, and the funds made available by Congress, are employed in the most effective manner possible in furtherance of their stated missions.

10. At your hearing, I asked you about your ownership interest in subsurface mineral rights in Alabama. These ownership interests were not listed on either your financial disclosure to the Judiciary Committee or on the forms the Committee received for your nomination from the Office of Government Ethics.

I asked you whether you owned these interests. You testified, “I believe that is so.” Later in your testimony, you assured me that “It’s something I’m going to take affirmative action in...I want to adhere to high standards. We’re going to find out what we did or didn’t do and correct it.”

- a. Have you indeed reviewed your financial filings with the Office of Government Ethics, Judiciary Committee, and Ethics Committee? If so, did you determine that disclosure of ownership of the subsurface mineral was missing?**

RESPONSE: Yes.

- b. What steps have you taken to update and correct these filings? Please also note if the Committee should expect to receive updated filings.**

RESPONSE: On Wednesday, January 25, 2017, I filed a revised Form 278, setting out my mineral interests separately. As required, I also revised my ethics agreement to cover these mineral interests. My understanding is that OGE forwarded an approved copy of this form to the Committee on January 27, 2017. On January 27, 2017, I filed a revised 2015 Senate financial disclosure form setting out all of my mineral holdings separately.

- c. Please describe in detail your knowledge of these mineral rights and the land under which they are located.**

RESPONSE: I own lands in Wilcox County and Monroe County, Alabama, with all mineral rights. There have never been any producing wells on these properties. I also own property in Choctaw County, Alabama, with full surface and mineral rights. In addition, in Choctaw County, I own certain mineral interests in lands where I do not own the surface. I have been generally aware that some of those mineral interests were reserved when my grandfather sold lands to the Adams Land and Timber Company over 60 years ago. In the 1950s, the U.S. Government purchased land from the Adams Land and Timber Company and my family that was to be flooded by the Coffeeville Lock and Dam, as well as for a wildlife preserve. The Adams Land and Timber mineral interests and my family’s interests were reserved in the agreed upon sale of surface rights to the government. The income, all or part, that I receive from the one declining oil well that is now producing, arises from the reserved mineral rights that I own lying beneath the lands purchased by the government. These mineral interests

have passed in the residuary clauses of a number of wills without ever being described. Further, in 2015, Chief Capital contacted me to lease certain mineral interests of which ownership I was completely unaware. These interests passed from the wife of my mother's brother to him, then to my mother and her sister, and then to me. These mineral interests were not described in any of the wills and passed by general residuary clauses.

My original OGE Form 278 and 2015 Senate financial disclosure form disclosed all of the income received from the mineral interests. My amended OGE Form 278 and my amended 2015 Senate financial disclosure form now list the non-fee simple mineral interests in Choctaw County, as required.

APPENDIX A

Campaign Events

August 21, 2015	Campaign Event, Mobile, AL
February 28, 2016	Campaign Rally, Madison, AL
July 17-22, 2016	Republican National Convention, Cleveland, OH
August 23, 2016	Campaign Event, Austin, TX
August 24, 2016	Campaign Event, Tampa, FL
August 30, 2016	Campaign Event, Everett, WA
August 31, 2016	Campaign Event, Phoenix, AZ
September 17, 2016	Campaign Events, Manchester, Salem, and Dover, NH
September 26, 2016	Presidential Debate, Hofstra University, NY
September 29, 2016	Campaign Fundraiser, NY, NY
October 3, 2016	Campaign Event, Dulles, VA
October 4, 2016	Vice-Presidential Debate, Farmville, VA
October 15, 2016	Campaign Events, Bangor, ME and Portsmouth, NH
October 19, 2016	Presidential Debate, Las Vegas, NV
October 24, 2016	Trump Victory office visit, Urbandale, IA
	Jasper County Central Committee Meeting, IA
	Breakfast, Des Moines, IA
	Lunch, Indianola, IA
October 30, 2016	Colorado Christian University Event
	GOTV Rally, Lakewood, CO
	Denver Broncos Watch Party, Parker, CO
	Dinner with CO Volunteers
October 31, 2016	Presidential Debate, Las Vegas, NV
November 1, 2016	Breakfast, Santa Rosa Beach, FL
	Lunch, Navarre, FL
	Headquarters Visit, Pensacola, FL
November 4, 2016	Border Tour, Naco, AZ
	Meeting, Cochise County Sheriff's Office, AZ
November 5, 2016	Concord, Keene, Red Arrow Diner, NH
	Nashua, NH visit
	Windham, NH visit
November 6, 2016	Meet and Greet, Portland, ME
	Trump Headquarters Event, Auburn, ME
November 7, 2016	Richmond, Farmville, Lynchburg, Roanoke, VA events
November 8, 2016	NYC Victory Party

Non-Campaign Events (attended in support of the campaign):

May 7, 2016	NC GOP Meeting, Greensboro, NC
May 14, 2016	Texas GOP Meeting, Dallas, TX
May 20, 2016	NRA Leadership Forum, Louisville, KY

May 22, 2016	Tennessee GOP Reagan Dinner, Murphreesboro, TN
October 22, 2016	Lawrence County, PA GOP Dinner, New Castle, PA
October 23, 2016	First Baptist Church of Charlotte Church Service, Charlotte, NC
	North Carolina State Fair, Raleigh, NC
October 24, 2016	Pike County GOP Dinner, West Des Moines, IA
October 25, 2016	Trump International Hotel Grand Opening, Washington, DC
October 29, 2016	Iowa GOP Dinner, Iowa