



**STATEMENT OF
WADE HENDERSON, PRESIDENT & CEO,
THE LEADERSHIP CONFERENCE ON CIVIL AND HUMAN RIGHTS**

**HEARING ON
THE NOMINATION OF SENATOR JEFF SESSIONS AS ATTORNEY GENERAL
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE**

JANUARY 10, 2017

Chairman Leahy, Ranking Member Sessions, and members of the Committee: I am Wade Henderson, President and CEO of The Leadership Conference on Civil and Human Rights. I am also honored to serve as the Joseph L. Rauh, Jr. Professor of Public Interest Law at the University of the District of Columbia David A. Clarke School of Law. Thank you for the opportunity to present the views of The Leadership Conference on the nomination of Senator Jeff Sessions to be the next United States Attorney General.

The Leadership Conference on Civil and Human Rights is the nation's oldest and most diverse coalition of civil and human rights organizations. Founded in 1950 by Arnold Aronson, A. Philip Randolph, and Roy Wilkins, The Leadership Conference seeks to further the goal of equality under law through legislative advocacy and public education. The Leadership Conference consists of more than 200 national organizations representing persons of color, women, children, organized labor, persons with disabilities, the elderly, gays and lesbians, and major religious groups. I am privileged to bring the voices of this community to today's hearing.

The Leadership Conference strongly opposes the confirmation of Senator Sessions as Attorney General. His decades-long record of racial insensitivity, bias against immigrants, disregard for the rule of law, and hostility to the protection of civil rights makes him unfit for this position. In our democracy, the Attorney General is the people's lawyer, not the President's lawyer, and has a sacred duty to enforce our nation's laws without prejudice and with an eye toward justice. He must be seen by the public – every member of the public, from every community – as a fair arbiter of our legal system. Unfortunately, Senator Sessions' record does not demonstrate that he would meet such a standard.

As you know, when then-U.S. Attorney Sessions was nominated in 1986 by former President Ronald Reagan to be a federal district judge, the Senate upheld its constitutional duty by undertaking a thorough review of his record at that time. This Committee was presented with compelling evidence that then-U.S. Attorney Sessions had a deeply troubling record as an opponent of civil rights enforcement, as someone who engaged in voter suppression tactics targeting African Americans (most notably his failed prosecution of three African-American voting rights activists¹), and a history of making racially

¹ Lena Williams, "Senate Panel Hands Reagan First Defeat on Nominee for Judgeship," *New York Times*, June 6, 1986, at <http://nyti.ms/2iadw1g>



insensitive comments. In light of this record, the Committee voted against recommending his confirmation.

Over the subsequent three decades, the record of Senator Sessions on matters of civil and human rights has been no less troubling. He remains just as unfit to serve in a position that would require him to represent all Americans in a fair and impartial manner.

First, we are concerned that he will simply fail to properly enforce many of our nation's important civil rights laws and precedents, given his opposition and in some cases outright hostility to them. For example:

- He praised² the Supreme Court ruling in *Shelby County v. Holder*,³ which gutted a key part of the Voting Rights Act of 1965.
- He strongly opposed the Shepard-Byrd Hate Crimes Prevention Act,⁴ and even argued it would be unconstitutional, long after the Supreme Court unanimously upheld a similar state law in *Wisconsin v. Mitchell*.⁵
- He opposed the Lilly Ledbetter Fair Pay Act of 2009⁶ and other legislation to advance women's rights, including efforts to address the pay gap.
- He opposed the reauthorization of the Violence Against Women Act in 2013⁷
- He characterized the Individuals with Disabilities Education Act's requirements to include children with disabilities in mainstream education as "irritating" and "accelerating the decline in civility."⁸
- He criticized⁹ the landmark marriage equality rulings of *U.S. v. Windsor*¹⁰ and *Obergefell v. Hodges*,¹¹ and supported legislation that aims to do an end run around them.
- He condemned investigations of police agencies accused of misconduct or a "pattern or practice" of violating civil rights, and called consent decrees "an end run around the democratic process."¹²

² David Weigel, Southern Republican Senators Happy that Supreme Court Designated Their States Not-Racist, Slate.com, June 25, 2013 at <http://slate.me/2ia9qpX>

³ 133 S. Ct. 2612 (2013).

⁴ Sen. Jeff Sessions, Floor Statements, July 20, 2009 at <http://bit.ly/2iabMEY>

⁵ 508 U.S. 476 (1993).

⁶ Passage of Lilly Ledbetter Fair Pay Act (S. 181), U.S. Senate Roll Call Votes 111th Congress – 1st Session, at <http://bit.ly/2i9UCrg>

⁷ Passage of Violence Against Women Reauthorization Act of 2013 (S. 47), U.S. Senate Roll Call Votes 113th Congress – 1st Session, at <http://bit.ly/2ia8529>

⁸ Sen. Jeff Sessions, Floor Statements, May 18, 2000, at <http://bit.ly/2iaua0q>

⁹ Chad Petri, "Senator Sessions on Gay Marriage," *WKRK.com News*, June 29, 2015 at <http://bit.ly/2i7a4Jx>

¹⁰ 133 S. Ct. 2675 (2013).

¹¹ 135 S. Ct. 2584 (2015).

¹² Eli Hager, Alysia Santo and Simone Weichselbaum, "8 Ways Jeff Sessions Could Change Criminal Justice," *The Marshall Project*, Nov. 18, 2016, at <http://bit.ly/2ia1G7d>



- After then-candidate Donald Trump was revealed to have made comments in 2005 bragging about physically forcing himself on women, Sen. Sessions failed to condemn the remarks and even questioned whether the comments described sexual assault¹³ – something his subsequent “clarification” still failed to address.

Second, at the same time that he will under-enforce the law in many areas, we believe he will over-enforce the law in other areas. For example:

- As evidenced by his failed 1985 prosecution of three voting rights activists who were working to increase African-American registration and turnout, and by his strong support for restrictive voter ID laws,¹⁴ Sen. Sessions is certain to overzealously pursue allegations of voter fraud – even though it is extremely rare¹⁵ – and support policies that make it more difficult for citizens to register and vote.
- Given his opposition to bipartisan efforts to reduce sentences for certain nonviolent drug offenses, and his opposition to administrative efforts that prioritize more serious cases,¹⁶ he can be expected to support mandatory minimum sentencing and other failed, heavy-handed criminal justice tactics – including with respect to marijuana, even though voters throughout the country continue to support its decriminalization.
- As a fierce opponent of comprehensive immigration reform – which he once referred to as “terrorist assistance”¹⁷ – as well as to more targeted legalization programs such as the DREAM Act, he will likely step up the criminal prosecution of nonviolent immigrants under programs such as “Operation Streamline” and reduce due process protections in administrative immigration proceedings.
- His defense of then-candidate Donald Trump’s call to prohibit Muslims from entering the country – something he called “appropriate to begin to discuss”¹⁸ – raises serious concerns that he will selectively enforce terrorism and criminal laws on the basis of religion.

Third, Senator Sessions has proudly associated himself with some of the most extreme and divisive organizations in our country today, associations that would contravene his responsibility to serve as “the people’s lawyer” for all Americans. For example, he has aligned himself with NumbersUSA, the Federation for American Immigration Reform, and the Center for Immigration Studies, all three of which were founded by John Tanton, who held white nationalist beliefs and called for the preservation of a “European-American majority.” He has also received awards from the David Horowitz Freedom Center and Frank Gaffney’s Center for Security Policy, two organizations designated as anti-Muslim hate groups by the Southern Poverty Law Center. And he has praised the writers of Breitbart.com, which its former head Stephen K. Bannon has described as the “platform for the Alt-Right.”

¹³ Sean Sullivan, “Trump supporter Sen. Jeff Sessions reportedly said behavior Trump described in 2005 video is not sexual assault,” *The Washington Post*, Oct. 10, 2016 at <http://wapo.st/2ia5WDE>

¹⁴ See, e.g., vote on Dole Amendment on voter identification (S.Amdt. 2350 to S.Amdt. 2327 to H.R. 2669), U.S. Senate Roll Call Votes 110th Congress – 1st Session, at <http://bit.ly/2i7d9Jy>

¹⁵ See, e.g., Brennan Center for Justice, “Debunking the Voter Fraud Myth,” Sept. 1, 2016, at <http://bit.ly/2i7cBDk>

¹⁶ “Federal Inmate Population Declines.” *Federal Bureau of Prisons*, Oct. 4, 2016, at <http://bit.ly/2iaeOJD>

¹⁷ Sen. Jeff Sessions, Floor Statements, June 27, 2007, at <http://bit.ly/2i7lFrO>

¹⁸ Eric Lichtblau, “Jeff Sessions, as Attorney General, Could Overhaul Department He’s Skewered,” *New York Times*, Nov. 18, 2016 at <http://nyti.ms/2ia1i8N>



Finally, since his nomination was announced, Senator Sessions has evidenced a disrespect for the nomination vetting and “advice and consent” process that raises additional questions about his fitness to serve as our nation’s top law enforcement officer. In particular, he has repeatedly failed to fully complete the Committee’s questionnaire,¹⁹ by omitting numerous controversial interviews and speeches and by giving inaccurate information regarding his civil rights litigation experience.²⁰ While I can understand the difficulty involved in documenting every speech and interview throughout a career as long as his, the misrepresentations and omissions are nonetheless troubling because he has strongly criticized other nominees for allegedly incomplete questionnaires – even suggesting in one case that it could amount to a felony.²¹ They also raise questions about whether he will exercise the necessary independence to serve as a proper adviser to and a check on the President and the administration that he intends to serve.

The totality of Senator Sessions’ record, despite some positive aspects,²² disqualifies him from wielding the tremendous authority and public trust that comes with serving as Attorney General. For the above reasons, The Leadership Conference on Civil and Human Rights urges you to vote against his confirmation.

Thank you for giving me the opportunity to contribute my views to the record of today’s hearing and to your deliberations over this nominee. Please feel free to contact me at (202) 466-3311 if I can be of any further assistance.

¹⁹ See, e.g., Sen. Dianne Feinstein, Press Release, “More Time Needed to Review Sessions Nomination Documents,” Dec. 13, 2016, at <http://bit.ly/2i7w0UL>

²⁰ J. Gerald Hebert, Joseph D. Rich and William Yeomans, “Jeff Sessions Says He Handled These Civil Rights Cases. He Barely Touched Them,” *Washington Post*, Jan. 3, 2017, at <http://wapo.st/2i7fZyo>

²¹ Jennifer Bendery, “Jeff Sessions Omits Decades of Records For His AG Confirmation Hearing,” *Huffington Post*, Dec. 30, 2016 at <http://huff.to/2i7jZ1L>

²² For example, the Southern Poverty Law Center, while expressing opposition to his confirmation, acknowledged that he was helpful in the Center’s successful effort to sue and bankrupt the Ku Klux Klan following its role in the 1981 lynching death of Michael Donald. Similarly, The Leadership Conference was grateful to work with Senator Sessions in an effort that culminated in the passage of the Fair Sentencing Act of 2010, which reduced racial disparities in federal cocaine sentencing provisions. While such actions are noteworthy, they do not change our conclusion that Sen. Sessions’ record, on the whole, is too troubling for him to be confirmed as Attorney General.