

January 17, 2017

The Honorable Charles E. Grassley  
The Honorable Dianne G. Feinstein  
United States Senate Committee on the Judiciary  
Dirksen Senate Office Building  
Washington, D.C. 20510

Dear Chairman Grassley and Ranking Member Feinstein:

We, the undersigned state Attorneys General, appreciate that this committee is vetting the appointment of the United States Attorney General with care and consideration. We write to urge you to reject the nomination of Senator Jefferson Beauregard Sessions III for this position.

As the Attorneys General and chief law officers of our respective states, we have a unique perspective and appreciation for the broad authority and prosecutorial discretion vested in the Attorney General of the United States. This lawyer wields enormous power and influence in our justice system. In exercising this power, the Attorney General makes critical decisions every day about how, and indeed whether, to enforce the nation's laws. It is imperative that the Justice Department be led by an individual on whom our nation can rely to diligently and fairly enforce all laws protective of civil rights, public safety, health and welfare.

While Senator Sessions is familiar with the broad power and discretion that comes with this job, having served as a state Attorney General and a United States Attorney, his record in these positions causes us grave concern. His testimony before your committee did little to assure us of his fitness to serve as Attorney General.

Our purpose in writing this letter is to bring our perspective to the nominee's past practices and present positions that we believe disqualify him from being appointed the highest-ranking law enforcement officer in the country. There are, in addition, many policy areas in which we disagree with Senator Sessions, but we have chosen to focus on those issues that we find to be truly disqualifying.

***Senator Sessions has refused to protect racial minorities or vulnerable populations.***

Senator Sessions has evidenced bigotry in statements he has made in the past. These statements speak of a man who has repeatedly chosen to use the power and discretion of his offices to undermine the cornerstone American principle of equal rights under law.

In 1986, after a lengthy hearing, this committee averted Senator Sessions' appointment to the federal judiciary after it came to light that he made several racially biased and intolerant statements. Among the disqualifying statements, while serving as United States Attorney for the Southern District of Alabama, Senator Sessions described the NAACP as "un-American," called an African American Assistant U.S. Attorney "boy," labeled a white civil rights lawyer a "disgrace to his race," dubbed the Voting Rights Act "a piece of intrusive legislation," and remarked that the Ku Klux Klan was "ok" (until he learned members used marijuana).<sup>i</sup>

These statements are emblematic of a man who, while serving as United States Attorney, used his prosecutorial discretion to pursue voter fraud charges against three prominent African American activists whose efforts promoted voter engagement in Alabama's rural Black Belt. Senator Sessions' unjust and unwise decision led an Alabama court to dismiss 50 of the charges for lack of evidence and an Alabama jury to acquit on those that remained.

The statements are consistent with Senator Sessions' use of his brief time as Attorney General of Alabama to scuttle a previously agreed-upon Voting Rights Act settlement that would have resulted in greater diversity in the Alabama appellate courts.<sup>ii</sup> Thanks in part to his actions, today all 19 appellate court judges in Alabama are white.<sup>iii</sup>

Finally, these statements are also in keeping with his recent vehement opposition to the enactment of federal hate crime protections for victims targeted due to their sexual orientations, disability, gender or gender identity. For years, Senator Sessions questioned whether such protections were necessary, despite evidence that members of the LGBTQ community are more likely to be targets of hate crimes than any other group. Though he now commits to enforcing this law—which requires the Attorney General to approve all criminal prosecutions—his years of staunch opposition call this commitment into serious question.

It is also against this backdrop that we must judge his recent claims to your committee that he is proud of federal voting rights and school desegregation cases that he litigated "personally" during his time as U.S. Attorney. He proffers these cases as a response to the concerns raised by his previous statements and actions. In fact, the attorneys who actually litigated these cases worked for "Main Justice"—the Department's headquarters in Washington, D.C.—not the Alabama U.S. Attorney's Office. These lawyers have said Senator Sessions can claim no ownership of the cases and, moreover, that he "worked against civil rights at every turn."<sup>iv</sup>

***Senator Sessions has rejected sensible, criminal justice policy reforms that enjoy broad bi-partisan support.***

Following incontrovertible evidence over the past decade, a broad bipartisan consensus has emerged that America's failed experiment with mass incarceration has been expensive, unjust, and ineffective. Simply put, severely punishing low level offenders has been shown to do nothing to reduce crime. It also increases recidivism, and costs the taxpayer dearly.

For these reasons, members of Congress and a diverse array of groups across the ideological spectrum—including the National District Attorneys Association, Right on Crime, the NAACP, and even the Koch brothers—have sought to eliminate sentencing policies that lack evidentiary support. Senator Sessions strongly opposed these reforms, which were codified in the Sentencing Reform and Corrections Act. In doing so, he made statements that were intended to instill fear, such as that the reforms would release “violent felons” and were “dangerous for America.”<sup>v</sup> This return to the politics of fear over fact is best summed up by Senator John Cornyn, who said that Senator Sessions' statements were “just not true.”<sup>vi</sup>

We are concerned that a Sessions' Department of Justice will instruct federal prosecutors to seek the highest available sentences and advance failed, draconian policies, while ignoring the empirical evidence that sentencing reform will lead to safer, stronger communities.

***Senator Sessions did not manage well an office much smaller than the United States Department of Justice.***

How Senator Sessions managed his past offices provides a cautionary tale for how he would run the Justice Department. During his brief tenure as Alabama Attorney General, the office was severely reprimanded by the Alabama Circuit Court in *State of Alabama v. Tieco*. The court found that the Alabama Attorney General's Office failed to turn over exculpatory evidence, disregarded court discovery orders, used deceptive testimony, and lied to the court, leading the presiding judge to find that the “misconduct of the Attorney General in this case far surpasses in both extensiveness and measure the totality of any prosecutorial misconduct ever previously presented to or witnessed by this court.”<sup>vii</sup> Senator Sessions' management record raises serious questions about his capacity to command the 100,000 employees of the Department of Justice.

***We urge the Judiciary Committee to reject Senator Sessions' nomination.***

The Justice Department seal reads “*Qui Pro Domina Justitia Sequitur*”: “Who prosecutes on behalf of justice.” As state attorneys general—the chief law officers of our respective states—we regularly work with the U.S. Department of Justice. Senator Sessions has stood for policies antithetical to this core mission of the Justice Department. Though he sought in his testimony before your committee to repudiate some of his controversial past positions, it is nevertheless clear to us that Senator Sessions continues to be the person reflected in the positions, statements and conduct set forth above. For these

reasons, we believe him to be unqualified for the role of United States Attorney General. We join the thousands of individuals and organizations that have voiced their opposition to Senator Sessions' appointment and respectfully urge you to reject his nomination.

Sincerely,



Eric T. Schneiderman  
New York Attorney General



Brian Frosh  
Maryland Attorney General



Ellen F. Rosenblum  
Oregon Attorney General



Maura Healey  
Massachusetts Attorney General



Karl A. Racine  
District of Columbia Attorney General



Doug Chin  
Hawaii Attorney General

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<sup>i</sup> Matt Apuzzo, *Specter of Race Shadows Jeff Sessions, Potential Trump Nominee for Cabinet*, N.Y. Times, Nov. 16, 2016, [https://www.nytimes.com/2016/11/17/us/politics/specter-of-race-shadows-jeff-sessions-potential-trump-nominee-for-cabinet.html?\\_r=0](https://www.nytimes.com/2016/11/17/us/politics/specter-of-race-shadows-jeff-sessions-potential-trump-nominee-for-cabinet.html?_r=0).

<sup>ii</sup> *White v. State of Ala.*, 74 F.3d 1058 (11th Cir. 1996).

<sup>iii</sup> Kim Chandler, *Black voters sue over Alabama's method of electing judges*, Associated Press, Sep. 7, 2016, <http://bigstory.ap.org/article/85843a38844e474d88b3f6d600fb5d38/black-voters-sue-over-alabamas-method-electing-judges>.

<sup>iv</sup> J. Gerald Hebert, Joseph D. Rich, William Yeomans, *Jeff Sessions says he handled these civil rights cases. He barely touched them*. Washington Post, Jan. 3, 2017, [https://www.washingtonpost.com/amhtml/opinions/jeff-sessions-says-he-handled-these-civil-rights-cases-he-barely-touched-them/2017/01/03/4ddffa6-d0fa-11e6-a783-cd3fa950f2fd\\_story.html](https://www.washingtonpost.com/amhtml/opinions/jeff-sessions-says-he-handled-these-civil-rights-cases-he-barely-touched-them/2017/01/03/4ddffa6-d0fa-11e6-a783-cd3fa950f2fd_story.html).

<sup>v</sup> Jeff Sessions, *The Current Sentencing Reform and Corrections Act is Dangerous for America*, Feb 9, 2016, <https://medium.com/@SenatorSessions/the-current-sentencing-reform-and-corrections-act-is-dangerous-for-america-aa31e8c75083#wqhg4fpi>.

<sup>vi</sup> Mike DeBonis, *Congress is closer than ever to easing sentences for drug offenders*, Washington Post, April 29, 2016, [https://www.washingtonpost.com/news/powerpost/wp/2016/04/29/the-time-for-criminal-justice-reform-might-at-last-be-nigh/?utm\\_term=.23c7fba4eda5](https://www.washingtonpost.com/news/powerpost/wp/2016/04/29/the-time-for-criminal-justice-reform-might-at-last-be-nigh/?utm_term=.23c7fba4eda5).

<sup>vii</sup> *USX Corp. v. Tieco, Inc.*, 189 F.R.D. 674, 679-680 (N.D. Ala. 1999) (quoting *State of Alabama v. TIECO, Inc., et al.*, (Jefferson Cty. Cir. Ct., Nos. CC-96-2961, July 16, 1997)).