

January 9, 2017

Chairman Grassley
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

Ranking Member Feinstein
United States Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510-6050

Dear Chairman Grassley and Ranking Member Feinstein:

The nomination of Senator Jeff Sessions of Alabama to be the Attorney General of the United States has raised concern amongst advocates representing individuals protected by federal civil rights laws. His record over the past 35 years as a U.S. Attorney in Alabama, as Alabama's Attorney General, and as a United States Senator includes statements and actions about civil rights that raise specific concerns for Civil Rights Roundtable members. The primary duty of an Attorney General is to enforce the federal statutes that form the bedrock of rights protection for vulnerable Americans. We must have no doubt about the ability of the candidate selected to do that most important job.

The Civil Rights Roundtable is a coalition of national organizations representing individuals within a wide range of protected classes. Our focus is on the impact of school discipline and juvenile justice referrals on members of the groups we represent, especially children who are members of more than one protected class. These children are often impacted even more severely by discrimination than children who are members of a single protected class.

The Attorney General of the United States must be an unbiased and relentless enforcer of the civil rights of all Americans through the work of the U.S. Department of Justice (DOJ). DOJ plays a critical role in enforcing laws, such as the Americans with Disabilities Act (ADA)¹, Section 504 of the Rehabilitation Act,² Title VI of the Civil Rights Act³ and Title IX⁴, among others.

Senator Sessions has a record replete with statements and actions that describe his enforcement philosophy concerning discrimination, including discrimination against children who are members of one or more protected classes. We urge you to oppose the confirmation of Senator Sessions because we believe that the actions and words of the nominee, as highlighted in the body of this letter, indicate that he would not adequately protect civil rights.

1 42 U.S. Code § 12101

2 29 U.S.C. § 701

3 Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d

4 Title IX of the Education Amendments of 1972, 20 U.S.C.A §1681

Children with Disabilities

Senator Sessions has promoted the segregation of students with disabilities. Many of these children, he said in 2001, should be “put in an alternative setting where the disability could be dealt with.”⁵ At the time, the state of Alabama was under a federal consent decree requiring the state to address significant disparities in the identification and placement of students of color with disabilities in separate classrooms serving only students with disabilities.⁶

Senator Sessions has promoted troubling and unfounded stereotypes about students with disabilities. In one speech on the floor of the Senate, he stated that “emotionally conflicted kids may often be the most dangerous ones, the ones most likely to come back in, say, six months from now and kill some innocent child in a classroom or shoot their teacher.”⁷ Throughout his years in the Senate, Senator Sessions has repeatedly told the story of a single student with an emotional disability who attacked his school bus driver, stating without further evidence that this incident represented a widespread problem caused by the integration of students with disabilities that was happening “on a regular basis” across the country.⁸ The truth is, though, children and adults with mental health disabilities are far more likely to be victims of violence than to perpetrate violence against others.⁹

Since becoming a U.S. Senator, Senator Sessions has frequently criticized the Individuals with Disabilities Education Act (IDEA)¹⁰, which is the federal statute which forms the framework for the education system for students with disabilities. Prior to the passage of the IDEA, children with disabilities were often isolated at home and uneducated. Senator Sessions has stated that the law is “hurting public education” and is “the single most irritating problem for teachers throughout America today.”¹¹ He described the IDEA as having “created a complex system of Federal regulations and laws that have created lawsuit after lawsuit, special treatment for certain children, and that are a big factor in accelerating the decline in civility and discipline in classrooms all over America.”¹²

Hate Crimes

Senator Sessions has consistently voted against legislation that would expand hate crimes to include additional groups. In 2000, Senator Sessions voted against an amendment “That Would Broaden The Categories Covered By Hate Crimes To Include Gender, Sexual Orientation And Disability And Would Make It Easier For The Federal Government To Get Involved In The Investigation And Prosecution Of Hate Crimes.”¹³

⁵ 147 Cong. Rec. 21, 895 (2001).

⁶ See Consent Decree, *Lee v. Macon*, Civil Action No. 70-T-854, Doc. No. 127 (Aug. 30, 2000 M.D. Ala.).

⁷ 145 Cong. Rec. 10,154 (1999).

⁸ 145 Cong. Rec. 25,546 (1999), 146 Cong. Rec. 6995 (2000); 147 Cong. Rec. 10,753 (2001)

⁹ Sarah L. Desmarais et al., *Community Violence Perpetration and Victimization among Adults with Mental Illness*, 104 Am. J. Pub. Health 2342, 2347 (2014).

¹⁰ 20 U.S.C. 1400

¹¹ 146 Cong. Rec. 6995-97 (2000).

¹² *Id.* at 6995.

¹³ http://www.senate.gov/legislative/LIS/roll_call_lists/

In 2002, the U.S. Senate voted on a motion to invoke cloture on the bill that would broaden the definition of hate crimes to include acts committed because of the victim's sex, sexual orientation or disability and allow the federal government to help states prosecute hate crimes even if no federally protected activity was involved.” Senator Sessions voted against the cloture motion.¹⁴

In 2007, Senator Sessions again voted against cloture on a measure that would “Make Violent Crimes That Cause Bodily Harm Based On The Victim's Race, Color, Religion Or National Origin Punishable By A Fine And Up To 10 Years In Prison, And Punishable By A Life Sentence If The Victim Dies, Is Kidnapped Or Subjected To Aggravated Sexual Abuse.”¹⁵ The bill would also have provided the same penalties for crimes motivated by gender, sexual orientation, gender identity or disability.

In October 2009, Congress passed the Matthew Shepard and James Byrd, Jr., Hate Crimes Prevention Act, which expanded the federal hate crime law to include crimes motivated by the victim’s actual or perceived gender, sexual orientation, or disability. Senator Sessions voted against the Act after delivering a floor statement denouncing the expansion of federal power to prosecute these crimes.¹⁶ Sessions declared the Act “unconstitutional.”¹⁷

Race and Poverty

As has been well covered in the press, there was sufficient concern about Senator Sessions’ perspective on race to prevent his nomination to be a federal judge from being approved by the U.S. Senate. Those who have worked with him recently question statements he has made about his civil rights enforcement record.¹⁸

As Attorney General of Alabama, Senator Sessions fought to overturn the finding of a state court that the state’s school funding system – which resulted in wide disparities between the facilities and services available to students in wealthy and poor districts – violated the state constitution’s guarantees of equal and adequate educational opportunities, equal protection under the law, and due process. In 1993, the court found that Alabama students “do not receive substantially equal (or equitable) educational opportunities in the state’s public schools” as a result of funding disparities.¹⁹ In 1995, when Senator Sessions began serving as Attorney General, he challenged the court’s rulings, contending that the judge lacked the

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¹⁴ http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=107&session=2&vote=00136

roll_call_vote_cfm.cfm?congress=107&session=2&vote=00136

¹⁵ http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=110&session=1&vote=00350

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¹⁶ 155 Cong. Rec. S10,669 (daily ed. Oct. 22, 2009).

¹⁷ 155 Cong. Rec. S7673-74 (daily ed. July 20, 2009).

¹⁸ https://www.washingtonpost.com/opinions/jeff-sessions-says-he-handled-these-civil-rights-cases-he-barely-touched-them/2017/01/03/4ddfffa6-d0fa-11e6-a783-cd3fa950f2fd_story.html?utm_term=.f09e50846bba

¹⁹ Opinion of the Justices, 624 So. 2d 107, 114 (Ala. 1993).

authority to oversee the state's school funding plans.²⁰ He then petitioned the court to vacate its order and dismiss the case.²¹

These are critically important points that indicate the nominee will not adequately fulfill his obligation to enforce civil rights law if confirmed.²² For those we represent, they are clear signs of the manner in which Senator Sessions would lead DOJ's enforcement work with regard to their rights. We expect that Senator Sessions will be questioned thoroughly about the manner in which he will enforce civil rights laws equally for all Americans. However, we believe that his dismal civil rights record supplies the most reliable and sufficient answers.

Thank you for your consideration of our views and our request that you work on behalf of all Americans to prevent his confirmation.

Sincerely,

The Judge David L. Bazelon Center for Mental Health Law
Center for Civil Rights Remedies at the Civil Rights Project at UCLA
Center for Public Representation
Council of Parent Advocates and Attorneys
Disability Rights and Education Fund
Education Law Center – PA
Juvenile Law Center
Public Interest Law Center

²⁰ Stephen Merelman, *James, A.G. Taking on Reese Ruling - Sessions Enlisted for Supreme Court Challenge of School Reform Order*, MOBILE REGISTER, Feb. 23, 1995 at A1.

²¹ Brief and Argument of Appellants at *17, *James v. Alabama Coalition for Equity*, Nos. 1950240, 1950241 (Ala. Oct. 6, 1995), 1995 WL 17961142.

²² The Civil Rights Roundtable owes a debt of gratitude to the Bazelon Center for their excellent research.

