



## Jeff Sessions' Attorney General Hearing: 3 Questions Senators Must Ask

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Alabama Senator Jeff Sessions, president-elect Donald Trump's nominee for attorney general, will kick off a packed week of Senate confirmation hearings today. If history serves, those hearings aren't likely to go as smoothly as either Sessions or Trump would hope.

Sessions has been in this seat before. Back in 1986, the Senate Judiciary Committee rejected Sessions' appointment to a federal judgeship after testimony from former colleagues asserted that the then-federal prosecutor had made racially insensitive remarks about civil rights groups and referred to a white civil rights lawyer as a "disgrace to his race." This legacy has followed Sessions, and his nomination immediately prompted outcries from defenders of racial justice, immigration, and privacy.

Just last week, NAACP president Cornell Williams Brooks and several others were arrested after taking part in an hours-long sit-in outside Sessions' office to protest the Alabama senator's nomination.

This and other ghosts of Sessions' past seem likely to reemerge as the Senate Judiciary Committee vets the nominee for attorney general today and tomorrow. You can watch the testimony below. Given the enormous power of his proposed office, the senators on the other side of the table should be asking some other big questions as well.

### **How will the Justice Department prioritize undocumented immigrants for deportation?**

Sessions has been one of Congress' loudest opponents of immigration reform. He was against the 2013 comprehensive immigration reform bill—which passed in the Senate, but died in the House of Representatives—and went so far as to propose a cap on legal immigration, as well. As attorney general, Sessions would be the most powerful law enforcement officer in the country, tasked with enforcing the Trump administration's new, and likely strict, immigration policies.

President-elect Trump has promised to deport up to 11 million undocumented people and to overturn President Barack Obama's executive order, Deferred Action for Childhood Arrivals (DACA), which granted temporary immunity from deportation to undocumented immigrants who came to the US as children. That policy currently covers roughly 700,000 undocumented immigrants, so-called DREAMers. Trump has said his administration's top priority, though, will be to expel "criminal aliens" first.

As attorney general, Sessions would have control over the immigration court system, meaning he could determine what crimes are severe enough to warrant deportation and whether or not legal counsel will be made available. Under the Immigration and Nationality Act, Sessions would also have the power to deputize state and local law enforcement as immigration agents if he “determines that an actual or imminent mass influx of aliens arriving off the coast of the United States, or near a land border, presents urgent circumstances requiring an immediate Federal response.”

“They could establish an immigration enforcement police state that could reach into schools, workplaces, churches, and universities,” says Ali Noorani, executive director of the National Immigration Forum, who has expressed concern over Sessions’ appointment.

Sessions’ reputation for being an immigration hardliner also raises questions about “sanctuary cities,” municipalities that have committed not to cooperate with federal authorities on immigration enforcement. Immigration advocates fear that these cities—including New York and Los Angeles—would lose federal funding, as Trump has promised, or might roll back some of their immigration-friendly policies under pressure.

The threatened crackdown also leaves many immigrant workers in limbo. That includes people who are in the country on high-skilled worker visas called H-1Bs, which Sessions has openly criticized, as well as DREAMers who entered the workforce after DACA was enacted.

### **Will he undo the law enforcement reforms of his predecessors?**

Under President Obama, the Department of Justice has actively investigated police brutality and police-involved shootings in cities like Chicago, Baltimore, and Cleveland. It has also urged judges and police departments to work together on reducing the country’s incarcerated population. The Obama administration has pushed for new sentencing guidelines and the diversion of low-level offenders and people with mental illness to treatment programs instead of prison. Much of this work has involved investments in data-mining tools that help jurisdictions better understand who should and shouldn’t be incarcerated in the first place.

Sessions’ record in public office and as a federal prosecutor suggests he would take a drastically different approach. He recently opposed the Sentencing Reform and Corrections Act, which would have reduced mandatory minimum sentences for non-violent offenders—legislation that had bipartisan support including the backing of Republican House Speaker Paul Ryan. Sessions has called consent decrees, the policing reforms that the Justice Department is issuing in places like Baltimore, “one of the most dangerous, and rarely discussed, exercises of raw power.”

Sessions is also an anti-drug crusader at a time when more than half of the states in the country have legalized marijuana in some way or another. In 2013, the Justice Department announced it would no longer try to override state laws. As attorney general, Sessions could reverse that policy.

### **Will he enforce the laws that rein in police and intelligence agency surveillance?**

Sessions’ history of hawkish support for surveillance practices should rankle both ends of Congress’s political spectrum. As a senator, Sessions repeatedly fought reform of the Patriot Act,

sided with the FBI in its battle with Apple over the iPhone's encryption, and tried to add an amendment to the Privacy Act that would make it easier for law enforcement agencies to force tech firms to hand over the data of their users. His opposition to the USA Freedom Act, a bill designed to rein in some of the surveillance revealed by NSA leaker Edward Snowden, was an exception even among Republicans, who passed the law in the House and Senate. "When it comes to the bulk collection of information, his position was an outlier even in his own party," says Neema Singh Guliani, a lawyer for the American Civil Liberties Union.

As the attorney general, Sessions would be responsible for enforcing that same USA Freedom Act—and all the other laws that protect Americans' privacy from their own government. "This is someone who thinks that every concern about law enforcement or intelligence agencies is slander against American heroes," says Julian Sanchez, a fellow with the Cato Institute. "It doesn't instill confidence he'll be a vigorous enforcer of the law against those agencies."

If Congress gives Sessions a pass on that surveillance issue and appoints him to lead the Justice Department, the move could strip away one of the key checks on the government's domestic spying powers. The results, says Robyn Greene, policy counsel at the New America Foundation's Open Technology Institute, could be "a situation that makes the Hoover era look like child's play." If the Trump administration pushes to expand government surveillance powers, Sessions will undoubtedly be eager to use them.