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Conservatives Should Think Twice before Supporting Jeff Sessions

Michael Tanner

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When President-elect Trump selected Alabama senator Jeff Sessions to be his attorney general, many conservatives cheered. Immigration hardliners were thrilled to have one of their own in the position, while other conservatives saw Sessions as the type of dynamic presence needed to clean out the Stygian morass of President Obama's Justice Department. "A sensible pick that promises to restore some integrity to a Justice Department tarnished by eight years of Obama-administration lawlessness," the editors of NATIONAL REVIEW called it.

Still, there are red flags in Sessions's record that should worry those who believe in limited government and individual liberty.

For instance, he sharply departs from the growing bipartisan consensus on criminal-justice reform. Leading conservatives and libertarians, from former Texas governor Rick Perry to Senators such as Ted Cruz and Rand Paul to the Koch brothers, have embraced the need to make our criminal-justice system more equitable, pushing for a greater emphasis on rehabilitation and a reduction in the incarceration of minor non-violent offenders.

Sessions has not been among them. He was a leading opponent of the Sentencing Reform and Corrections Act, which reduced federal sentences for some non-violent drug offenses and other crimes, and has long been one of the most ardent drug warriors in Congress. At a time when 32 states have legalized medical and/or recreational use of marijuana, Sessions told a Senate hearing last April that, "we need grown-ups in charge in Washington to say marijuana is not the kind of thing that ought to be legalized, it ought not to be minimized, that it's in fact a very real danger." His opposition to state legalization measures promises to put the Justice Department in conflict with conservative principles of federalism.

Moreover, as George Will has pointed out, Sessions also opposes the reform of asset-forfeiture laws. He has defended these laws, which are considered by most observers to be widely abused, as a means of taking money from people who have "done nothing in their lives but sell dope." He's even advocated allowing the federal government to step in and seize assets when state law-enforcement agencies won't.

Just as worrying, Sessions generally opposes Justice Department supervision of local police departments accused of racial abuses. “Consent decrees have a profound effect on our legal system as they constitute an end run around the democratic process,” he has said.

Elsewhere, he has defended the ability of the NSA and other federal agencies to spy on Americans. Last April, the Republican-controlled House of Representatives unanimously passed the Email Privacy Act, designed to require that law-enforcement agencies receive a warrant before they can compel tech firms such as Google and Microsoft to hand over Americans’ stored cell-phone communications. Sessions introduced an amendment to the bill that would have created a loophole allowing law enforcement to demand such data without a warrant.

Finally, he has opposed legislation protecting the jobs of federal whistle-blowers and shield laws protecting journalists from having to disclose their sources.

Sessions will almost certainly be confirmed. Presidents are generally entitled to the cabinet of their choosing, and nothing that has come out about Trump’s AG nominee so far appears disqualifying. But that doesn’t mean that Senators shouldn’t ask him tough questions.

To this point, Democrats have focused much of their criticism of Sessions on long-ago and disputed racially inflammatory statements that he may or may not have made. Those criticisms are unlikely to go anywhere. But both Democrats and Republicans should join in concern over Sessions’s knee-jerk deferral to law enforcement and government authority.

The U.S. attorney general holds great power. Conservatives should not be afraid to subject the man who would wield that power to the strictest scrutiny.

— *Michael Tanner is a senior fellow at the Cato Institute and the author of [Going for Broke: Deficits, Debt, and the Entitlement Crisis](#). You can follow him on his blog, [TannerOnPolicy.com](#).*