



‘Black Lives Matter’ Won’t to Trump DOJ

During his time in public office, Senator Jeff Sessions has made clear his hostility to many of the progressive groups who found a home in Obama’s Department of Justice.

Betsy Woodruff

November 20, 2016

Donald Trump’s pick for attorney general, Sen. Jeff Sessions, is the human embodiment of the phrase “all lives matter.” And as head of the Justice Department, he will have the power to radically change how the federal government oversees law enforcement, prosecutes drug offenders, and handles voting issues. Changes are coming. And it’s safe to assume that whatever the Black Lives Matter movement wants, Sessions wants the opposite.

Though progressive groups and Democrats are appalled by Sessions’s nomination, it’s unlikely they will be able to stop his confirmation. Sessions just needs to get 51 votes in the Senate, and thus far, none of the chamber’s Republicans say they will oppose him.

Over his decades in public life, Sessions has taken stances that are the antithesis of the Black Lives Matter movement—opposing criminal justice reform, supporting strict sentences for drug offenders, and telegraphic skepticism about the need for special federal protections for LGBT people. And from his perch at the Justice Department, Sessions will be able to impact how the federal government interacts with millions of people in their daily lives.

One immediate change Sessions could make would have the potential to increase the number of people in prison. On Aug. 12, 2013, then-Attorney General Eric Holder issued [a memo](#) instructed prosecutors to stop putting information on drug quantities in indictments that would trigger onerous mandatory minimum sentences. The number of people in federal prisons dipped below 200,000 in November of 2015—the first time since 2007 the number had been that low, and some say that’s due in part to Holder’s memo. Kevin Ring, the vice president of Families Against Mandatory Minimums, said prison populations would likely grow if Sessions reverses Holder’s memo.

“When people serve longer sentences, the population tends to increase just because you have more people there longer,” he said.

Another reason prison populations might grow under Sessions: His appointment as attorney general all but guarantees that federal criminal justice reform legislation is dead and gone. Ring said his group, which tries to lower and eliminate mandatory minimum sentencing requirements, is increasing its focus on state-level lobbying because federal action is so unlikely.

“In any Congress, let alone a Republican Congress, you are not going to pass significant criminal justice reform legislation over the objections of the chief law enforcement officer in the country,” he said. “Of course it’s doable, but many will see it as political suicide.”

Sessions has bucked many conservatives in his party by opposing reforms that reduce incarceration rates (though he supported eliminating the sentencing disparity for crack and powder cocaine). And, like Trump, he reflexively defends police, including criticizing federal efforts to fight racial bias in local police departments. Obama’s Department of Justice pushed hard on those efforts, as The Marshall Project has detailed. And Sessions in 2008 called them “an end run around the democratic process.” Sessions will be able to end ongoing investigations into police departments, disregard their findings, and overall lower federal scrutiny of police.

What isn’t clear is how he will handle marijuana issues. Sessions has long been a consistent, passionate opponent of marijuana legalization (in a Senate hearing in April, he said that “good people don’t smoke marijuana”). But—as Aaron Smith of the National Cannabis Industry Association told Roll Call—he’s also a staunch backer of states’ rights. And since Trump himself has vacillated on the issue, we’ll just have to wait and see what happens to the nascent semi-legal marijuana industry under Sessions.

Sessions can also make huge changes on voting issues. The department is currently involved in lawsuits against Texas and North Carolina over voter I.D. requirements, and William Yeomans—a law professor at American University’s law school and former acting assistant attorney general—said Sessions could end the department’s work on those cases.

“I don’t expect Sessions as attorney general would continue that approach,” he said, of the department’s opposition to restrictive voting laws. “I hope he will.”

Yeomans said he suspects Sessions will focus more on voting fraud (a problem that is inconsequential, at the very worst) than on voter repression.

Ilya Shapiro, a senior fellow in constitutional studies at the libertarian Cato Institute, agreed Sessions will likely change how the department handles voting rights issues.

“The way that voting right laws are enforced will change significantly,” he said.

And the department’s view of what it means to be a minority could also shift, he said.

“The definition of racial minorities and what protecting them means will change,” Shapiro said. “Where whites are in the minority, there will be DOJ action there.”

Of course, it’s too early to see how exactly this might play out. But we can probably expect a greater focus on investigations of groups like the New Black Panthers, and allegations that they violate the rights of white voters. That’s what the Bush administration did in 2008, and the

Obama administration promptly narrowed its New Black Panthers investigation, as *The Washington Post* detailed. A former DOJ attorney complained to the paper that Obama's justice department only cared about protecting the civil rights of people of color. Sessions's DOJ, as Shapiro said, is unlikely to generate similar complaints.

Sessions's Department of Justice also may have a lesser focus on prosecuting hate crimes targeted at LGBT people. In the Senate, he voted against the Matthew Shepard hate crime law, which gave additional protections to LGBT people under federal hate crime laws.

"People are concerned with how we are picking and choosing the people who receive the extra protection," Sessions said at the time, as ABC News noted.

These are all issues of enormous consequence where there will likely be little continuity between Obama and Trump. When it comes to the most basic understanding of what the word "justice" means, things are going to change