

January 9, 2017

VIA EMAIL

Re: *Nomination of Sen. Jefferson B. Sessions III to be Attorney General of the United States*

Dear Senator:

On behalf of the National Women's Law Center (the "Center"), an organization that has advocated on behalf of women and girls for forty-five years, we write in strong opposition to the confirmation of Senator Jefferson ("Jeff") B. Sessions III to be Attorney General of the United States.

As the nation's chief law enforcement official, the Attorney General is responsible for enforcing federal laws, including laws of the utmost importance to women, such as Title VII, Title IX, the Freedom of Access to Clinic Entrances Act (FACE), the Violence Against Women Act (VAWA), the Voting Rights Act (VRA), and the Fair Housing Act (FHA), as well as core constitutional protections, including the Equal Protection Clause and the right to privacy. The Department of Justice, led by the Attorney General, also enforces federal hate crime laws, which create enhanced criminal penalties for crimes that target victims based on gender, race, sexual orientation and disability, among other bases. Consequently, the Attorney General has a profound impact on the legal rights and very futures of women across this country.

Senator Sessions' record demonstrates that he has a deep hostility to carrying out core responsibilities of the office to which he has been nominated. His over thirty years in public office have established a consistent, incontrovertible hostility towards a broad swath of women's rights and civil rights that, if he is confirmed, would undermine the very purpose of the Department of Justice. For example:

- **Sen. Sessions has taken positions hostile to the rights of survivors of sexual assault.** He voted against the 2014 reauthorization of the Violence Against Women Act.<sup>1</sup> He also voted to block the Military Justice Improvement Act,<sup>2</sup> which would have increased protections from sexual assault for military members and would have removed the decision to prosecute sexual assault from the chain of command and placed it in the hands of trained, independent military prosecutors. Indeed, when a 2005 tape in which Donald Trump described sexually assaulting and harassing women was released in October 2016, Sen. Sessions stated that he wasn't even sure that grabbing a woman by

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<sup>1</sup> *Ala. Senator Opposes Violence Against Women Act*, WSFA (2013), <http://www.wsfa.com/story/21202399/ala-senator-opposes-violence-against-women-act>.

<sup>2</sup> S. 1752 – MILITARY JUST. IMPROVEMENT ACT OF 2013 – KEY VOTE, <http://votesmart.org/bill/17609/46979/443/military-justice-improvement-act-of-2013#.WD3v0bIrLcs> (last visited Jan. 6, 2017).

her genitals constitutes sexual assault.<sup>3</sup>

- **Sen. Sessions has explicitly attacked the legal validity of *Roe v. Wade* and shown hostility to women’s right to reproductive health care, including abortion.** He has described *Roe v. Wade* as one of the worst, “colossally erroneous Supreme Court decisions of all time.” And he has repeatedly opposed legislation providing women access to reproductive care, including abortion<sup>4</sup> and contraception.<sup>5</sup> Further, Sen. Sessions has opposed funding that would help protect abortion clinics from harassment and violence.<sup>6</sup>
- **Sen. Sessions has consistently opposed laws protecting women’s right to equal pay and equal opportunity.** He voted against the Lilly Ledbetter Fair Pay Act<sup>7</sup> and the Paycheck Fairness Act. He also voted against a bill that would give women-owned businesses more access to government contracts for construction projects.<sup>8</sup>
- **Sen. Sessions has a long record of opposing bedrock civil rights protections.** In 1986, before becoming a Senator, Sen. Sessions’ nomination to be a federal judge was rejected by the Senate Judiciary Committee, which cited his prior history of hostility to basic civil rights protections. The evidence presented was stark. There was even testimony that he had called the NAACP and the ACLU “un-American” and “Communist-inspired”<sup>9</sup> and during the hearing Sen. Sessions stated that the Voting Rights Act was a “piece of intrusive legislation.” His opposition to the Voting Rights Act continued once he became a Senator. Sen. Sessions opposed legislative efforts to restore and update the Voting

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<sup>3</sup> Danielle Paquette, *It’s Not Clear if Jeff Sessions Thinks Grabbing a Woman by the Crotch is Sexual Assault*, THE WASH. POST (Nov. 18, 2016), <https://www.washingtonpost.com/news/wonk/wp/2016/11/18/its-not-clear-if-trump-attorney-general-sessions-thinks-grabbing-a-woman-by-the-crotch-is-sexual-assault/>.

<sup>4</sup> See, e.g., Press Release, Child Custody Protection Act (Sept. 10, 1998), available at <http://www.sessions.senate.gov/public/index.cfm/floor-statements?ID=ADB00577-7E9C-9AF9-79F9-98D660DCB8A1>.

<sup>5</sup> See e.g., U.S. SENATE ROLL CALL VOTES 111TH CONGRESS – 1ST SESSION, VOTE 396, [https://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=111&session=1&vote=00396](https://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=111&session=1&vote=00396) (last visited Jan. 6, 2017); S. 1292 – DEFUND OBAMACARE ACT OF 2013 – COSPONSORS, <https://www.congress.gov/bill/113th-congress/senate-bill/1292/cosponsors> (last visited Jan. 6, 2017) ; Press Release, Sessions Backs House Effort to Defund Obamacare (Sept. 20, 2013), available at <http://www.sessions.senate.gov/public/index.cfm/news-releases?ID=3CD6748A-F4AD-8C54-16D2-95C49FBF6018>.

<sup>6</sup> U.S. SENATE ROLL CALL VOTES 114TH CONGRESS – 1ST SESSION, VOTE 311, [http://www.senate.gov/legislative/LIS/roll\\_call\\_lists/roll\\_call\\_vote\\_cfm.cfm?congress=114&session=1&vote=00311](http://www.senate.gov/legislative/LIS/roll_call_lists/roll_call_vote_cfm.cfm?congress=114&session=1&vote=00311) (last visited Jan. 6, 2017).

<sup>7</sup> S. 181 (111TH): LILLY LEDBETTER FAIR PAY ACT OF 2009, <https://www.govtrack.us/congress/votes/111-2009/s14> (last visited Jan. 6, 2017).

<sup>8</sup> Neha Thirani Bagri, *Trump’s Choice for Attorney General Has Done Some Really Awful Things to Try to Set Back Women’s Rights*, QUARTZ MEDIA (Nov. 19, 2016), <http://qz.com/841443/jeff-sessions-womens-rights-record/>.

<sup>9</sup> J. Gerald Herbert, *Why I Told the Senate that Jeff Sessions Thought Civil Rights Groups Were ‘Un-American’*, THE WASH. POST (Nov. 22, 2016), [https://www.washingtonpost.com/posteverything/wp/2016/11/22/my-testimony-about-jeff-sessionss-racist-remarks-kept-him-from-becoming-a-judge/?utm\\_term=.8210ec707661](https://www.washingtonpost.com/posteverything/wp/2016/11/22/my-testimony-about-jeff-sessionss-racist-remarks-kept-him-from-becoming-a-judge/?utm_term=.8210ec707661).

Rights Act, after the Supreme Court's decision in *Shelby County v. Holder*.<sup>10</sup>

- **Sen. Sessions has regularly opposed antidiscrimination protections for LGBTQ individuals.** He opposed the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act,<sup>11</sup> which added violence based on bias against gender, sexual orientation, gender identity and disability to federal hate crimes legislation. Sen. Sessions voted for an amendment to the Violence Against Women Act that would have removed protections for LGBTQ individuals,<sup>12</sup> and voted against the final bill that included those protections.<sup>13</sup> He voted for a constitutional amendment that would define marriage as between one man and one woman.<sup>14</sup> He voted for an amendment to the Employment Non-Discrimination Act that would have gutted protections against employment discrimination based on sexual orientation and gender identity by exempting religiously affiliated employers from the law.<sup>15</sup>
- **Sen. Sessions has been a leading voice in Congress arguing against immigration reform that includes a path to citizenship for undocumented immigrants, and is in favor of drastically reducing legal immigration.** In his two decades in the Senate, Sen. Sessions has opposed every single immigration bill that included a path to citizenship,<sup>16</sup> and has also sought to limit the number of legal immigrants entering the country.<sup>17</sup>

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<sup>10</sup> Mary Troyan, *Sessions Opposes Update to the Voting Rights Act*, THE MONTGOMERY ADVISOR (June 25, 2014), <http://www.montgomeryadvertiser.com/story/news/2014/06/25/sessions-opposes-update-voting-rights-act/11364929/>. See also Mary Troyan, *Sessions' Career Shows Mixed Record on Voting Rights Act Support*, USA TODAY (Nov. 24, 2016), <http://www.usatoday.com/story/news/politics/2016/11/24/sessions-senate-career-shows-mixed-record-voting-rights-act-support/94303120/> (describing Sen. Sessions' opposition to the Voting Rights Act as Alabama Attorney General and as during his freshman term as a Senator).

<sup>11</sup> Press Release, Sessions Expresses Concerns About the Hate Crimes Act (July 20, 2009), available at <http://www.sessions.senate.gov/public/index.cfm/floor-statements?ID=a8247be2-d851-bebf-9a8a-02a497fd6f1b>.

<sup>12</sup> *Congressional Scorecard: Measuring Support for Equality in the 112th Congress*, HUMAN RIGHTS CAMPAIGN 6 (2013), [http://hrc-assets.s3-website-us-east-1.amazonaws.com/files/assets/resources/112thCongressionalScorecard\\_2012.pdf](http://hrc-assets.s3-website-us-east-1.amazonaws.com/files/assets/resources/112thCongressionalScorecard_2012.pdf).

<sup>13</sup> Sunnive Brydum, *Why We Can't Afford to "Wait and See" How Trump Dismantles LGBT Rights*, RELIGION DISPATCHES (Dec. 2, 2016), <http://religiondispatches.org/why-we-cant-afford-to-wait-and-see-how-trump-dismantles-lgbt-rights/>.

<sup>14</sup> Scott Keyes & Shannon Greenwood, *For GOP Senate Candidates, Banning Same-Sex Marriage in the Constitution Has Lost Its Appeal*, THINK PROGRESS (June 6, 2014), <https://thinkprogress.org/for-gop-senate-candidates-banning-same-sex-marriage-in-the-constitution-has-lost-its-appeal-a3dd24c4e153#.xmcm14lw1>.

<sup>15</sup> Chris Johnson, *Sessions Tapped as AG Despite Anti-LGBT Views, Charges of Racism*, THE WASHINGTON BLADE (Nov. 18, 2016), <https://www.washingtonblade.com/2016/11/18/trump-taps-sen-sessions-for-ag-despite-racist-anti-lgbt-reputation/>.

<sup>16</sup> Suzanne Gamboa, *Latinos Blast Trump's AG Pick Jeff Sessions Over Race, Immigration*, NBC NEWS (Nov. 18, 2016), <http://www.nbcnews.com/news/latino/latinos-blast-trump-s-ag-pick-jeff-sessions-over-race-n685951>.

<sup>17</sup> Amber Phillips, *10 Things to Know About Sen. Jeff Sessions, Donald Trump's Pick for Attorney General*, WASH. POST (Nov. 18, 2016), [https://www.washingtonpost.com/news/the-fix/wp/2016/11/18/10-things-to-know-about-sen-jeff-sessions-donald-trumps-pick-for-attorney-general/?utm\\_term=.bd3a3e9b88da](https://www.washingtonpost.com/news/the-fix/wp/2016/11/18/10-things-to-know-about-sen-jeff-sessions-donald-trumps-pick-for-attorney-general/?utm_term=.bd3a3e9b88da).

Sen. Sessions' record of hostility to the key laws that he would be charged with enforcing raises serious concerns that, under his leadership, enforcement of key legal protections for women, people of color, LGBTQ people, and immigrants by the Department of Justice would be ignored at best, but more likely challenged and undermined. Women seeking to exercise their right to basic health services and health care providers could be at risk; women asserting their right to equal pay could face new hurdles; women subjected to domestic abuse and sexual assault could lose Justice Department protection; immigrants could face government harassment and prosecution; victims of police misconduct could be abandoned; those seeking to exercise their right to vote under the Voting Rights Act could confront a Department that is an adversary; those facing hate crimes could lose confidence in the Department's prosecution of the perpetrators. The consequences are great and the dangers to the pursuit of justice in our country grave, should Sen. Sessions be confirmed.

Although the publicly available record amply demonstrates why Sen. Sessions' nomination should be rejected, it should be noted that the record before the Senate Judiciary Committee is incomplete. Sen. Sessions failed to include hundreds of speeches, interviews, and op-eds in the questionnaire that he initially submitted to the Committee. And even his supplements are seriously deficient. Every nominee for any confirmable position should be required to provide complete information, but given the special obligation of the Attorney General as the chief law enforcement officer of the land, it is essential that the Committee – and the public – have before them a full and complete record upon which to evaluate Sen. Sessions' nomination, and that he be held to the requirements of the law. In fact, Sen. Sessions asserted previously that the omission of important documents from a nominee's questionnaire could be considered a legal violation and at the least warranted delaying the nominee's confirmation hearing – and that is certainly the case here.<sup>18</sup> Given the serious gaps in information provided here, delaying the hearing until the gaps are filled is imperative.

In conclusion, given Sen. Sessions' record, the public can have no confidence that, as Attorney General, he would fairly enforce the bedrock laws and constitutional protections that secure equality, fairness, and opportunity in this country. Consequently, the Center strongly opposes the confirmation of Senator Jefferson B. Sessions III to be Attorney General of the United States and urges the Senate Committee on the Judiciary to reject his nomination.

Sincerely,

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<sup>18</sup> Brian Montopoli, *Republicans Attack Judicial Nominee Goodwin Liu for Omissions*, CBS NEWS (Apr. 6, 2010), <http://www.cbsnews.com/news/republicans-attack-judicial-nominee-goodwin-liu-for-omissions/>.

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