



January 25, 2017

The Honorable Charles Grassley  
Chairman  
Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Dianne Feinstein  
Ranking Member  
Senate Committee on the Judiciary  
152 Dirksen Senate Office Building  
Washington, DC 20510

Dear Chairman Grassley and Ranking Member Feinstein:

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The American Civil Liberties Union (ACLU) strongly urges you to cancel the pending committee vote on the nomination of Senator Jeff Sessions for Attorney General and further asks that Senator Sessions re-appear as a witness in another Committee hearing. Given the reported involvement of Senator Sessions in today's executive orders, we request that the committee hold a second hearing with Senator Sessions to consider the position of the nominee on the extraordinary claims of executive authority, and the grave dangers to civil liberties and civil rights, posed by the actions taken and proposed by President Donald Trump over the past five days. The Senate should vigorously question the role of Senator Sessions in developing these new orders and proposals and his plans to implement and execute them.

It would be hard to overstate the urgency and importance of this request for a second hearing. The Senate cannot meaningfully carry out its constitutional obligation, under Article II of the Constitution, to exercise "advice and consent" on the nomination without Senator Sessions providing the Committee with his views on the president's actions and proposals since his inauguration. The ACLU strongly urges you to oppose moving forward on the nomination of Senator Sessions until he answers questions personally before the Committee. Going forward with a Committee vote on the nomination without a second hearing would be an abdication of the Senate's constitutional role.

As you know, in his first hearing, Senator Sessions testified, "I have no belief and do not support the idea that Muslims as a religious group should be denied admission to the United States." Because President Trump's forthcoming executive order excludes refugees and immigrants from Muslim-majority countries, we advise you to seek further clarification from Senator Sessions about whether he intends to implement this order and whether he believes it to be consistent with his first claim to the committee.

In addition to his Muslim exclusion order, the president has issued orders or threatened proposals in recent days which:

- Threatens broad changes to enforcement of immigration laws that will have significant impacts on both immigrants and American citizens across the country.

- Directs drastic changes to the relationship between the federal government and the states in punishing state and local governments for their treatment of immigrants, including actions which would use state and local governments to carry out federal immigration enforcement.
- Cuts the annual budget of the Civil Rights Division of the Department of Justice by \$58 million, which is roughly one-third of its budget.
- Jeopardizes the protections afforded by the Affordable Care Act to persons with disabilities, women, racial minorities, LGBT persons, and lower and middle income Americans.

The Committee should hold a second hearing with Senator Sessions not only because these actions and proposals severely threaten civil liberties and civil rights, but also because several media reports have described Senator Sessions—even while waiting for the committee to vote on his nomination—as an influential advisor to the Trump administration on these issues. None of these actions had taken place at the time of his first confirmation hearing. The Committee must hold a second hearing to consider these new developments, Senator Sessions' role in the developments, and his views on these important orders and proposals.

There is precedent for holding a second hearing on a nominee for a top position at the Department of Justice, when the Committee receives consequential new information that it must consider at an open hearing with the nominee. In October 2005, Chairman Arlen Specter scheduled a second hearing on the nomination of Timothy Flanigan to be Deputy Attorney General, after the Committee received important information that had not been available at the time of the first hearing. Chairman Specter took the step of scheduling a second hearing because the role of Deputy Attorney General is critical to the enforcement of our nation's laws. The stakes are even higher here, with the nomination of a candidate for Attorney General.

The ACLU strongly urges you to cancel the Committee vote scheduled for next Tuesday, hold a second hearing with Senator Sessions, and make clear that the Committee and the Senate will not move forward with the nomination until after a second hearing. Please do not hesitate to contact us with any questions or comments.

Sincerely,



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Director, Washington Legislative Office



Chris Anders  
Deputy Director, Washington Legislative Office