



**WHERE IS JUSTICE:**  
**REPORT ON THE FIRST 100 DAYS**  
**OF UNITED STATES**  
**ATTORNEY GENERAL JEFF**  
**SESSIONS**

**MAY 2017**



**LAWYERS' COMMITTEE FOR**  
**CIVIL RIGHTS**  
**U N D E R L A W**

## **ABOUT THE LAWYERS' COMMITTEE FOR CIVIL RIGHTS UNDER LAW**

The principal mission of the Lawyers' Committee for Civil Rights Under Law is to secure equal justice for all through the rule of law, targeting in particular the inequities confronting African Americans and other racial and ethnic minorities. The Lawyers' Committee is a nonpartisan, nonprofit organization, formed in 1963 at the request of President John F. Kennedy to enlist the private bar's leadership and resources in combating racial discrimination and the resulting inequality of opportunity – work that continues to be vital today. Among its major areas of work are Educational Opportunities, Fair Housing & Community Development, Voting Rights, Criminal Justice and Economic Justice. Since its inception, the Lawyers' Committee has been committed to vigorous civil rights enforcement, the pursuit of equal justice under law, and fidelity to the rule of law.

## **ABOUT THE “WHERE IS JUSTICE” REPORT SERIES**

For 60 years, the Civil Rights Division of the U.S. Department of Justice has stood at the forefront of efforts to protect and safeguard the civil rights of African American, Latino and other minority communities. As the Division prepares to mark its 60<sup>th</sup> anniversary, it is important to closely examine the current downward trajectory of civil rights enforcement under United States Attorney General Jeff Sessions. Oversight from the public and civil rights groups will also be key in exposing actions taken by the Justice Department that jeopardize federal civil rights enforcement. Thus, the Lawyers' Committee for Civil Rights Under Law is launching a new series of reports entitled “Where Is Justice” to review actions taken by the Justice Department, and to shine a spotlight on key civil rights matters that are being abused or ignored by this administration and Attorney General Sessions.

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**Jefferson “Jeff” Sessions**  
84<sup>th</sup> Attorney General of the United States  
Sworn in February 9, 2017 to the  
United States Department of Justice

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## EXECUTIVE SUMMARY

For 60 years, the Civil Rights Division of the U.S. Department of Justice has stood at the forefront of efforts to protect and safeguard the civil rights of African American, Latino and other minority communities. As the Division prepares to mark its 60<sup>th</sup> anniversary, it is important to closely examine the current downward trajectory of civil rights enforcement under United States Attorney General Jeff Sessions.

Attorney General Sessions was sworn into office on February 9, 2017. In his first 100 days, Attorney General Sessions has taken actions that have caused grave concerns among civil rights organizations, advocates and communities. He has sought to reverse important progress made in recent years to bring fairness to the criminal justice system and protect the most vulnerable among us. Whether reversing course in important civil rights cases, or withdrawing important policy directives that helped encourage reform or bringing civil rights enforcement to a grinding halt, Attorney General Sessions's actions reflect a hostility and opposition to vigorous enforcement of federal civil rights matters. In the first 100 days since his swearing in, the Attorney General has:

- Revoked a 2016 directive aimed at phasing out the use of private prisons for federal inmates. This action ran contrary to findings issued by the Department of Justice in 2016 finding that private prisons were subject to higher rates of violence, abuse and neglect.
- Called for the review of all “existing and contemplated” consent decrees in matters involving police departments engaged in a pattern and practice of violating civil rights.
- Undermined carefully negotiated consent decrees implemented during the Obama administration. Over the objection of Attorney General Sessions, a federal judge recently moved forward with a consent decree that places the Baltimore Police Department on a path to long overdue reform.
- Issued a recent directive to prosecutors that threatens to reignite a “War on Drugs” by mandating harsh sentences for criminal defendants. The directive has been the subject of bi-partisan opposition and runs contrary to efforts across the country to reduce and eliminate harsh sentences imposed on low-level offenders.
- Abandoned a long-held position in a voting rights case concerning a discriminatory and restrictive photo ID law in Texas. By no longer arguing that the law was adopted with a discriminatory purpose, Attorney General Sessions leaves to civil rights organizations the task of fighting this important federal voting rights case.
- Taken actions that marginalize immigrant communities. Attorney General Sessions has made clear his intent to use the Justice Department as a platform to advance this administration's immigration enforcement strategy, and he has demonstrated an open hostility towards sanctuary cities.

- Stood silent in the wake of the spike in hate crimes across the country. The Attorney General's silence in wake of hate-inspired incidents leaves victims and communities feeling vulnerable and without the support of the federal government.

The Lawyers' Committee for Civil Rights Under Law (Lawyers' Committee) opposed Attorney General Sessions's nomination. The Lawyers' Committee's opposition was based on an extensive record in which Attorney General Sessions did not demonstrate a commitment to federal civil rights enforcement. Unfortunately, the concerns that drove our opposition have not been proven false. In the first 100 days of Attorney General Sessions's tenure, DOJ has taken actions that threaten to unravel the fragile progress that has been made to advance justice and equality across our country. These actions also raise questions about whether Attorney General Sessions is fully executing his role and responsibility to enforce federal civil rights laws and prompt us to ask the question: Where Is Justice?

Congressional oversight of the Justice Department is one tool that must be used to help hold the Attorney General accountable. Oversight from the public and civil rights groups will also be key in exposing actions taken by the Justice Department that threaten to turn the clock back on civil rights enforcement and progress. Congressional oversight of the Justice Department is one tool that can help hold the Attorney General accountable. Oversight from the public and civil rights groups will also be key in exposing actions taken by the Justice Department that jeopardize federal civil rights enforcement. Thus, the Lawyers' Committee for Civil Rights Under Law is launching a new series of reports entitled "Where Is Justice" to review actions taken by the Justice Department, and to shine a spotlight on key civil rights matters that are being abused or ignored by this administration and Attorney General Sessions.

## **Civil Rights Litigation**

Over the course of his first 100 days in office, Attorney General Sessions has taken actions that clearly undermine civil rights enforcement and reform. From stalling cases, reversing policy reforms, to abandoning the federal government's long-standing position in civil rights cases, many of Attorney General Sessions's actions make clear his opposition to federal civil rights enforcement.

### **Rolling Back Voting Rights Enforcement**

In Attorney General Sessions's first 100 days, we have observed actions that suggest that enforcement of the Voting Rights Act and combatting voting discrimination are not priorities. In fact, the Lawyers' Committee has experienced first-hand the effects of the Justice Department's reversal of the federal government's position in a key voting rights case.<sup>1</sup>

#### ***Veasey v. Abbott***

During the last administration, DOJ had joined efforts to block a strict voter ID law in Texas, arguing the law was aimed at suppressing the state's minority voters. The United States, through the Department of Justice, has now withdrawn its significant claim of intentional discrimination, which it had been pressing for years.

In *Veasey v. Abbott*, DOJ and several private plaintiffs, including organizations represented by the Lawyers' Committee, have been challenging the Texas voter identification law. The district court initially found that the law violated the Voting Rights Act, finding both a discriminatory effects violation of Section 2 of the Voting Rights Act and intentional discrimination in violation of both the Voting Rights Act and the Constitution. The Court of Appeals affirmed the finding of the discriminatory effects violation and remanded the case to the district court for reevaluation of the intentional discrimination claim.

Three hours after the inauguration, the Department of Justice requested a delay of the hearing on remand of the intentional discrimination claim which had been set for January 24<sup>th</sup>. The district court rescheduled the hearing for February 28<sup>th</sup>. Five days before the scheduled hearing, the Department of Justice and Texas filed a joint motion asking for a further delay of the hearing, on the basis that the Texas legislature was considering legislation that might amend the photo ID law. The court denied this motion. The day before the hearing, the Department of Justice filed a motion for leave to withdraw its intentional discrimination claim, and in a subsequent briefing, argued that the court should not issue its decision on intentional discrimination until after the legislative session ended. Texas used the briefing on this motion as an opportunity to argue that the pending legislation would moot the entire case. In April, the District Court granted the Justice Department's motion for voluntary dismissal of its intent claim, but held, contrary to Texas's arguments, that the case was not moot and, contrary to the argument of the Department of Justice, that the Court of Appeals had not directed it to withhold a decision on the intent claim while the Texas legislature was considering a new voter identification law. Soon after, the District Court entered an order on remand again holding that the Texas voter ID law was passed with discriminatory intent.

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<sup>1</sup> *Veasey v. Abbott*, C.A. No. 13-193 (S.D. Tex)

## **Reversing Smart Criminal Justice Reform**

In his first 100 days, Attorney General Sessions has subscribed to discredited ideas about criminal justice policy that conservatives, progressives, and law enforcement have come to agree do not help reduce crime and unnecessarily increase the prison population. His views place him at odds with cross-partisan efforts that have been made to reform the justice system.<sup>2</sup>

- February – Just prior to the Attorney General’s swearing in ceremony, President Trump announced three executive orders centered around the Department of Justice: 1) establishing the Task Force on Crime Reduction and Public Safety, to focus on illegal immigration, drug trafficking, and violent crime; 2) on Preventing Violence Against Federal, State, Tribal, and Local Law Enforcement Officers, to prosecute individuals who commit or attempt to commit crimes of violence against law enforcement officers; and 3) on Enforcing Federal Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking, to focus on the drug trafficking and the trafficking and smuggling of human beings.
- February – Acknowledging that overall crime rates remain at historic lows, Attorney General Sessions cites the 3% spike in violent crime from 2014 – 2015, as well as increases in the murder, rape and aggravated assault rates, as warning signs of a reversing trend and announced that a top priority of the Department of Justice during his time as Attorney General will be “to act decisively at all levels – federal, state and local – to reverse this rise in violent crime and keep our citizens safe.”
- February – Alleging that violent crime is on the rise, Attorney General Sessions established the Crime Reduction and Public Safety Task Force, which focuses on “the Attorney General’s commitment to combatting illegal immigration and violent crime, such as drug trafficking, gang violence and gun crimes, and to restoring public safety to all of the nation’s communities.”
- February – Attorney General Sessions rescinded guidance that directed the Bureau of Prisons to phase out private prison contracts despite the declining inmate populations and systemic safety and security deficiencies documented by the Department’s inspector general last year. This reversal of the Justice Department’s efforts to end the use of private prisons is the natural extension of his clear intention to reignite the failed war on drugs. Attorney General Sessions whole-heartedly embraces the idea that drug trafficking is a major driver of violent crime and ignores evidence from his own Bureau of Justice Statistics establishing that fewer than 25% of all drug offenders in federal prisons used guns during the commission of their crimes and nearly two-thirds had no or minimal criminal histories.
- March – Declaring that “[t]urning back our nation’s recent rise in violent crime is a top priority for the Department of Justice,” Attorney General Sessions issued a memorandum instructing federal prosecutors to identify the individuals within their communities who are responsible for violent crimes in their communities and ensure that they are prosecuted. The memo specified that “disrupting and dismantling...drug organizations through prosecutions under the Controlled Substances Act can drive violent crime down,” and announced that further guidance would be forthcoming.

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<sup>2</sup> Justice Safety Valve Act of 2017

- May – Attorney General Sessions instructed the nation’s 2,300 federal prosecutors to pursue the most serious charges in all but exceptional cases.<sup>3</sup> Rescinding a 2013 policy that sought to avoid mandatory minimums for low-level, nonviolent drug offenders. Crime statistics have indicated that mandatory minimum penalties are an ineffective crime deterrent. They are, however, extremely effective at exacerbating existing racial disparities within the criminal justice system.

### **Obstructing Efforts to Promote Police Reform**

Immediately following his swearing in, Attorney General Sessions expressed a desire to boost what he views as low “morale” among those in state and local law enforcement. In his first 100 days, the Attorney General has issued a series of directives that reflect the false belief that efforts to reform police practices has compromised public safety and inhibit police officers from properly executing their jobs.

- February – To an audience of police officers, Attorney General Sessions discussed how police “have been targeted” and how this has made “morale suffer” and this is the reason for potential wrongdoings on the part of the police. He later stated “when you fight crime you have to fight it where it is, and you may have at some point an impact of a racial nature that we hate to see. But if it’s done properly, it’s the right thing.”
- April – In a speech in Chicago, Attorney General Sessions supported “broken windows” policing after correlating the number of people getting arrested for smaller crimes for the increase of violence in the city.
- April – At the mid-year International Association of Chiefs of Police conference, Attorney General Sessions told police chiefs that consent decrees are “not a silver bullet” for reforming law enforcement. He further explained that court-binding agreements “pull scarce resources and personnel away from crime-fighting in order to satisfy the demands of highly-paid monitors.” He also stated: “I have grave concerns that some provisions of these decrees reduce the lawful powers of police departments in ways that make cities less safe.”
- April – Attorney General Sessions issued the memorandum on “Supporting Federal, State, Local and Tribal Law Enforcement,” which directed the Deputy Attorney General and the Associate Attorney General to review all Department activities – including collaborative investigations and prosecutions, grant making, technical assistance and training, compliance reviews, existing or contemplated consent decrees, and task force participation – in order to ensure that they promote the principles outlined within the order, including that the “misdeeds of individual bad actors should not impugn or undermine the legitimate and honorable work that law enforcement officers and agencies perform in keeping American communities safe.” The timing of this order was especially precarious for the city of Baltimore. A year-long federal investigation uncovered a pattern of unconstitutional treatment of the city’s black residents and excessive reform measures with then-Attorney General Loretta Lynch, and the only remaining step was signoff from a federal judge who would oversee the agreement.

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<sup>3</sup> [Department of Justice Memorandum for All Federal Prosecutors on Department Charging and Sentencing Policy.](#)

- April – Attorney General Sessions directed the Justice Department to delay the consent decree hearing for Baltimore’s Police Department. The directive signaled the Justice Department’s intention to abandon its obligations under federal civil rights law to ensure that police departments are serving residents in a nondiscriminatory manner. The motion was “strongly opposed” by the Mayor of Baltimore City and deeply troubled the city, its residents who wanted the decree and top officials on Baltimore's police force
- April – After U.S. District Court Judge James Breda entered the Baltimore consent decree over the Justice Department’s objections, Attorney General Sessions expressed “grave concerns” that some provisions of the Baltimore City consent decree would “reduce the lawful powers of the police department.”

### **Promoting President Trump’s Immigration Enforcement Agenda**

In his first 100 days, Attorney General Sessions’s has taken action that have marginalized immigrant communities and appeared aimed at advancing this administration’s immigration enforcement agenda. Attorney General Sessions made a series of policy changes that have expanded the role of the Justice Department in this administration’s immigration enforcement strategy, and has moved forward with his attack on sanctuary cities.

- March – In a statement on ICE’s weekly Declined Detainer Outcome Report, Attorney General Sessions declared, “It is not acceptable for jurisdictions to refuse to cooperate with federal law enforcement by releasing criminal aliens back into our communities when our law required them to be deported. The Department of Justice will use all lawful authority to ensure that criminals who are illegally in this country are detained and removed swiftly and to hold accountable jurisdictions that willfully violate federal law.”
- March – Attorney General Sessions publically urged “nation’s states and cities and counties to consider carefully the harm they are doing to their citizens by refusing to enforce immigration laws and to rethink these policies. Such policies make their cities and states less safe. Public safety as well as national security are at stake and put them at risk of losing federal dollars.”
- April – Attorney General Sessions has worked closely with the Department of Homeland Security and made a series of appearances with Secretary John Kelly signaling a united front on increased border security and the Department of Homeland Security’s hiring of 10,000 additional ICE officers.
- April – Speaking before Customs and Border Patrol personnel along the U.S.- Mexico border in Arizona, declaring that he “took an oath to protect this country from all enemies, foreign and domestic,” Attorney General Sessions directed U.S. Attorneys to expand prosecutions of undocumented immigrants in a number of ways, including more heavily targeting cases of identity theft and illegal reentry. This warning signals a full reversal of Attorney General Holder’s efforts to curb abuses associated with civil asset forfeiture that have been documented in numerous articles on the problem of policing for profit. Moreover, this new approach to immigration will not only increase the number of federal cases against undocumented immigrants, it will also raise the prospect of using more privately owned prisons to detain people.

- April – To address the pre-existing backlog of deportation cases, Attorney General Sessions moved 25 judges to detention facilities in Adelanto and San Diego, California as well as Chicago, Illinois. Judges are required to serve 12-hour shifts starting at 6 AM and ending at 6 PM.
- April – Juan Manuel Montes-Bojorquez sued the U.S. government for documents explaining why he was deported. He is believed to be the first recipient of the Obama-era Deferred Action for Childhood Arrivals to be deported. DHS initially stated that said that Montes's DACA status expired in 2015, but subsequently released new information confirming that Montes was approved for DACA status lasting until 2018. The case raised questions about the administration's focus on DACA recipients and the collateral consequences of a policy being driven forward with great inaccuracy. In response, Attorney General Sessions stated that "DACA enrollees are not being targeted."
- April – Attorney General Sessions sent letters to nine cities from the Department of Justice who have taken steps to protect immigrant families and communities. Attorney General Sessions instructed these jurisdictions to abide by federal immigration enforcement mandates, demanding compliance by June 30<sup>th</sup>. Attorney General Sessions has indicated that non-compliance will result in the loss of federal funding, including federal grants. Jurisdictions targeted include New York City, Chicago, New Orleans, Philadelphia, Las Vegas, Miami, Milwaukee, and state of California.
- May – Attorney General Sessions announced that there are 45,493 foreign-born inmates currently in BOP custody, of which 3,939 are U.S. citizens (either naturalized or derivative). Of the remaining 41,554 foreign-born inmates, approximately 13,886 (33.4%) are undocumented people who are under ICE investigation for possible removal, and approximately 5,101 (12.3%) are undocumented people still pending adjudication.

### **Silence in the Wake of Devastating Spike in Hate Crimes**

Over the last 100 days, our country has confronted a devastating spike in reports of hate incidents and hate crimes. During that same time, with one exception, we have heard a deafening silence from Attorney General Sessions.

- March – A white supremacist fatally stabbed a 66 year-old stranger in New York City, explaining that he was "on a practice run" and was planning on killing more black people in New York's Times Square.
- February – Two Indian immigrants were shot by a white male who leveled ethnic slurs at them and questioned their immigration status before he killed them.
- March – Reports indicate that there has been an 86 % increase in anti-Semitic incidents compared to the same period in 2016.<sup>4</sup> Increasing reports of hate incidents and crimes targeting Muslim Americans since the election reflect the disturbing trend

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<sup>4</sup> Slotskin, Jason, Anti-Semitic Incidents Up 86 Percent Compared With Same Time Last Year, April 24, 2017.

- documented by the FBI's latest hate crimes data documenting a 67% increase in anti-Muslim hate crimes in 2015. Reports of shootings at mosques are increasing. A Sikh man was shot in his driveway. Immigrant children are afraid to go to school, and hate incidents targeting immigrant communities are on the increase. And in 2017, at least 10 transgender people have been violently killed.
- May – Attorney General Sessions broke his silence about hate crimes. After a federal court handed down a 49-year prison sentence to the Defendant for the 2015 assault and murder of Mercedes Williamson, a 17 year-old transgender girl, the Attorney General stated that “[t]he Justice Department will continue its efforts to vindicate the rights of those individuals who are affected by bias motivated crimes.” We certainly appreciate the Attorney General’s recognition of the importance of this first case involving a victim targeted because of her gender identity, and welcome the commitment to continue to prosecute these cases. However, we will be watching closely to ensure the career prosecutors of the Civil Rights Division who are responsible for these cases continue to have the support to fully investigate and prosecute cases targeting all communities, including people targeted on the basis of race, color, national origin, gender, gender identity, sexual orientation, religion, or disability.

While the Attorney General’s long overdue statement was reassuring, he has been making statements or taking actions with respect to other civil rights protections that sow division and fear, supporting a climate in which hate can flourish. At this time, our country needs to hear from the Attorney General that the Department of Justice is, indeed, a Department of Justice committed to pursuing equal justice for all, regardless of race, color, national origin, gender, gender identity, sexual orientation, religion or disability. Yet under Attorney General Sessions, the Department of Justice revoked federal guidelines protecting transgender students from discrimination. As ICE abandons its sensitive locations policy, arresting immigrants outside of schools for detention and deportation, the Department of Justice has been silent about its commitment to enforcing clearly established Supreme Court precedent protecting the right of all children, regardless of immigration status, to attend K-12 public schools. And Attorney General Sessions’ Justice Department’s vigorous defense of the President’s unlawful Muslim ban normalizes discrimination and hate by profiling people on the basis for their race, national origin, and religion. These actions help normalize hate in a way that promotes the hate crimes that the Department of Justice is obligated, and, according to Attorney General Sessions, committed to investigate and prosecute.

### **Conclusion: Where Is Justice**

We urge Attorney General Sessions to carry out his role and responsibility as the chief law enforcement officer for the nation. We urge Congress to provide oversight to ensure transparency and accountability at this critical federal agency. Finally, we urge the public to bring pressure to bear on the Justice Department to carry out its role by continuing to file and submit civil rights complaints when potential federal violations occur.

The Lawyers’ Committee will remain vigilant in our mission to secure equal justice for every American through the rule of law and work to fill in the gaps created in the lapse of enforcement by the Justice Department. We deem it critical that DOJ use its unique resources and institutional expertise to combat ongoing violations of federal civil rights laws that unfold across our country.

## MISSION STATEMENT

The principal mission of the Lawyers' Committee for Civil Rights Under Law is to secure equal justice for all through the rule of law, targeting in particular the inequities confronting African American and other racial and ethnic minorities. The Lawyers' Committee is a nonpartisan, nonprofit organization, formed in 1963 at the request of President John F. Kennedy to enlist the private bar's leadership and resources in combating racial discrimination and the resulting inequality of opportunities – work that continues to be vital today. Development Project

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