

SENATOR JEFF SESSIONS
QUESTIONS FOR THE RECORD
THOMAS PEREZ

Voting

1. Do you believe non-citizens have the right to vote in federal and/or state elections?

Answer: I do not believe that non-citizens have the right to vote in federal and/or state elections.

2. One particular decision for which the Voting Section has been criticized was its role in the Georgia preclearance memo regarding Georgia's voter ID law. Notwithstanding that criticism, voter ID laws were subsequently upheld by the Supreme Court in its decision in Crawford v. Marion County Election Board, 128 S. Ct. 1610 (2008). In Crawford, the Supreme Court recognized that the threat of voting fraud is real and that it "could affect the outcome of a close election." (Id. at 1619). The Court emphasized the government's interests in counting only the votes of eligible voters and maintaining "public confidence in the integrity of the electoral process." More recently, the Georgia Voter ID law was upheld by the Eleventh Circuit, which stated that "[t]he insignificant burden imposed by the Georgia statute is outweighed by the interests in detecting and deterring voter fraud." Common Cause/Georgia v. Billups, 554 F.3d 1340, 1354 (11th Cir. 2009).
 - a. If chosen to lead the Civil Rights Division, will you follow the precedent set in Crawford and allow states to pass voter ID laws to ensure that only those who are eligible to vote can do so?

Answer: The Court in Crawford recognized that preventing voter fraud is an important government interest and that Indiana's voter ID law served that interest. As can be seen in the Crawford opinion, as well as the Georgia Voter ID law, the legality of voter ID laws depends on the facts and circumstances of the particular case. If I am confirmed, I will follow the Crawford precedent, which recognized that the United States has an interest in ensuring that only voters who are eligible to vote actually vote, while at the same time enforcing laws designed to eliminate voting practices that discriminate on the basis of race, color, or membership in a language minority group.

3. I am very concerned by evidence from recent elections that members of our armed forces overseas have been disenfranchised. Often this is the result of states failing to get ballots to the soldiers in a timely fashion, or more recently in Fairfax County, Virginia, by giving inadequate information on the ballot. The Voting Section took steps this past election cycle to address this problem, but more needs to be done. Members of our armed forces put their lives on the line so that we can have the opportunity to vote, so it is of the utmost importance that we protect their right to vote. Waiting until the time of election next year will be too late.

a. Please outline how you will be proactive in this area.

Answer: There is no excuse for any citizen to be disenfranchised, least of all the members of our armed forces overseas who are sacrificing so much for our country. If confirmed, I would aggressively enforce the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) to vindicate the rights of our military voters. I would work closely with the Department of Defense, which has a dedicated staff that works to ensure members of the Armed Forces have a full opportunity to vote.

b. What steps will you take to ensure that each American soldier has the opportunity to vote in a timely fashion and to have his or her vote counted?

Answer: I will familiarize myself with the process currently in place at the Department of Defense and work with them on any adjustments that need to be made.

c. Will you commit to updating the committee on your progress in this area?

Answer: I would welcome an opportunity, if confirmed, to update the Committee on the Division's progress in this area, and to work collaboratively with you to ensure that we protect the right to vote for service members living and working overseas.

Housing

4. You stated in your hearing that you planned to use Department of Justice resources to play a role in foreclosure prevention, as you have done in the State of Maryland.

a. If someone acquired a mortgage that they could not afford and there is no evidence that they acquired the mortgage as a result of discrimination, do

you believe that it is the role of the Civil Rights Division to prevent foreclosure?

Answer: If confirmed, I would work to protect homeowners from foreclosure by enforcing the provisions of the Fair Housing Act and the Equal Credit Opportunity Act. I would make sure that the Division continues to work with its federal law enforcement partners both within DOJ and outside (e.g. the Federal Trade Commission and the Department of Housing and Urban Development). For example, if there is not sufficient evidence of discrimination, but it appears that a borrower may have been defrauded or that a lender/broker/servicer may have violated other federal statutes, the Division would refer homeowners to the other agencies with jurisdiction. If there is evidence of criminal fraud, we would refer the matter to the FBI and the Criminal Division,

- b. Do you agree with me that Department of Justice resources should not be used to protect individuals who have fraudulently gained home mortgages by lying about their legal status?

Answer: I agree that Department of Justice resources should be used to prosecute violations of the Fair Housing Act and the Equal Credit Opportunity Act as they apply to discrimination on the part of the mortgage providers. If confirmed, I would ensure that a thorough and fair factual and legal inquiry is conducted and that all the elements of a violation are satisfied before moving forward.

- c. Please indicate how you will ensure that DOJ resources are not used to protect individuals who have fraudulently gained home mortgages by lying about their legal status.

Answer: If confirmed, I would conduct thorough and fair investigations to determine whether the facts of a particular case are a violation of the Fair Housing Act or the Equal Credit Opportunity Act. If there is no evidence or insufficient evidence of discrimination, then the matter would be closed. As in all cases, I would apply the applicable law to the particular set of facts and make a determination as to whether to proceed.

Immigration Enforcement

- 5. Your past association with CASA de Maryland (CASA) raises concerns. In fact, CASA promotes illegal immigration through publications such as “Know Your

Rights! Learn How to Protect You and Your Family During Immigration Raids,” a pamphlet designed to teach “people who are not United States citizens” (undocumented) to protect themselves during valid immigration enforcement actions. I understand and support the important role of the Civil Rights Division in protecting the rights of minority groups, and I think the work of the Division is vitally important. Notwithstanding, the Civil Rights Division must not act in contravention to valid enforcement actions of our federal immigration laws.

- a. What assurances can you give me that you will not use Department of Justice resources to contravene the lawful work of groups such as the Department of Homeland Security and its various law enforcement components?

Answer: If confirmed, I will work to enforce the laws that fall under the jurisdiction of the Civil Rights Division in a fair and even-handed manner. The Department of Homeland Security performs critical work, and I will work to ensure that the law enforcement activities of the Civil Rights Division will not be at cross purposes with the work of the Department of Homeland Security.

6. According to a 2006 news article, you responded to Maryland Minutemen who opposed hiring undocumented workers: “There’s a regrettably long history of xenophobes who oppose immigration. . . . The good news is that they have always remained a small fringe group, and they will continue to be.”¹

- a. I am alarmed by this statement, Mr. Perez. It seems that you are painting with a very broad brush when you call all those who stand for a lawful system of immigration and immigration enforcement “xenophobes.” Do you stand by your statement?

Answer: After re-reading the article you reference, I am reminded that this particular statement was in reference to a particular individual who had been soundly defeated in a bid for elected office in my community because his views were not supported by the vast majority and not within the mainstream thinking in my county. I was not making reference to an entire group and regret if anyone perceived my remarks as doing so.

¹ Sebastian Montes, “Minutemen to shift focus: Immigration reform group to monitor employers; opponents decry effort,” Gazette.Net (Maryland Community Newspapers Online), May 31, 2006.

- b. You also have called the Minutemen a “radical fringe group.”² Do you stand by that statement?

Answer: I had the privilege of serving on the Montgomery County Council from 2002 until 2006. I developed a strong working knowledge of where County residents stood on a variety of important issues. If one reviews the entire quote, I stated that the Minutemen, who were beginning to enter the County at the time of the article, “don’t speak for Montgomery County” on immigration related issues. I expressed my belief that the views of the Minutemen on immigration did not reflect the views of the vast majority of my then-constituents, who strongly supported efforts by a bipartisan group of U.S. Senators, including some members of the Judiciary Committee, to enact comprehensive solutions to the immigration challenge.

Religious Freedom

7. During your hearing you commended the work of the Department of Justice in protecting the religious freedoms of Americans. Specifically, you stated: “I think the work that has been done protecting religious freedom is a critical, a good example of work that’s been done well.” I agree with you. Please outline your priorities for the Civil Rights Division in this area.

Answer: If confirmed, combating religious discrimination will remain a priority of the Civil Rights Division. I will enforce the Religious Land Use and Institutionalized Persons Act (RLUIPA), and will ensure that the Division continues to prosecute people who violently victimize religious minorities and attack places of worship. I find this behavior abhorrent and my experience working for Senator Kennedy on the Church Arson legislation only strengthened my interest in the matter. If I am confirmed, the Division will continue to use all existing statutory tools to combat religious discrimination.

² Nancy Trejos, “Minutemen Take Campaign to Md. Centers,” THE WASHINGTON POST, Feb. 26, 2006.