
JEFF SESSIONS:

A HISTORY OF
ANTI-LGBTQ ACTIONS



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LETTER FROM JUDY SHEPARD



DEAR FRIENDS,

Since his nomination to U.S. Attorney General by President-elect Trump, Senator Jeff Sessions' record on civil rights and criminal justice has raised a serious question for the American public: is Senator Sessions fit to serve as the nation's chief law enforcement officer? The answer is a very simple and very clear, no.

In 1998 my son, Matthew, was murdered because he was gay, a brutal hate crime that continues to resonate around the world even now. Following Matt's death, my husband, Dennis, and I worked for the next 11 years to garner support for the federal Hate Crimes Prevention Act. We were fortunate to work alongside members of Congress, both Democrats and Republicans, who championed the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act with the determination, compassion, and vision to match ours as the parents of a child targeted for simply wanting to be himself. Senator Jeff Sessions was not one of these members. In fact, Senator Sessions strongly opposed the hate crimes bill -- characterizing hate crimes as mere "thought crimes." Unfortunately, Senator Sessions believes that hate crimes are, what he describes as, mere "thought crimes."

My son was not killed by "thoughts" or because his murderers said hateful things. My son was brutally beaten with the butt of a .357 magnum pistol, tied to a fence, and left to die in freezing temperatures because he was gay. Senator Sessions' repeated efforts to diminish the life-changing acts of violence covered by the Hate Crimes Prevention Act horrified me then, as a parent who knows the true cost of hate, and it terrifies me today to see that this same



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person is now being nominated as the country's highest authority to represent justice and equal protection under the law for all Americans.

As Attorney General, Senator Sessions would be responsible for not only enforcing the Hate Crimes Prevention Act, but a myriad of other civil rights laws including the Violence Against Women Act, which includes explicit protections for LGBTQ people. Senator Sessions' very public record of hostility towards the LGBTQ community and federal legislation designed to protect vulnerable Americans, including the Voting Rights Act, makes it nearly impossible to believe that he will vigorously enforce statutes and ideas that he worked so hard to defeat.

Over a career that spans more than 3 decades in public life Senator Sessions has forfeited opportunity after opportunity to stand up for people like my son Matt and has, instead, used his position of power to target them for increased discrimination and marginalization, thus encouraging violence and other acts deemed to be hate crimes. Senator Sessions has also repeatedly opposed comprehensive immigration reform and was prevented from being confirmed as a federal judge thirty years ago based on racially offensive views. Over the years, Senator Sessions has consistently referred to same-sex relationships and LGBTQ people like Matt as "dangerous," or as a "threat" to our American way of life and our so called "traditional" moral beliefs.

Matt was raised to believe in equal rights and equal protection for all. As a freshman in college in North Carolina, he participated in protests against the racist, bigoted, homophobic attitudes of then Senator Jesse Helms. During his short life, Matt was always fighting to make life better for everyone. I am here today to carry on his legacy, to do what he would be doing if he were alive, to verbally protest against the types of attitude and prejudice that resulted in his death. Matt was many things, but he was not dangerous and he was not a threat. But, based on the record of his past actions, it is blatantly clear that placing Jeff Sessions in the position as the nation's chief law enforcement official would be both.

Sincerely,
Judy Shepard



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Senator Sessions has spent a lifetime in public service devoted to proudly denying equality and justice for LGBTQ people. As Attorney General of Alabama and as a U.S. Senator, Jeff Sessions has not only ignored every opportunity to protect the LGBTQ community from violence, discrimination, and marginalization, but he has publicly opposed the inclusion of LGBTQ people in federal Hate Crimes laws and the Violence Against Women Act reauthorization. He has consistently used his position of power to publicly characterize LGBTQ people and same-sex marriage and relationships as “explicit” and “dangerous” to “traditional American moral principles.”

The Office of the Attorney General has proven to be a critical partner to the LGBTQ community. For example, Attorney General Loretta Lynch was publicly committed to seeking justice for LGBTQ people. Under her leadership, the Department of Justice brought a lawsuit against the state of North Carolina following passage of House Bill 2, charging violations of federal laws including the Violence Against Women Act, Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. The Department of Justice has also consistently defended the inclusion of protections based on sex stereotyping and gender identity under the Affordable Care Act and joined the Department of Education in issuing guidance to schools to ensure that transgender students are protected from discrimination under Title IX.

Senator Jeff Sessions has used his public office to persistently dismiss settled Constitutional principles including the basic right to be in a same-sex relationship without the threat of arrest or imprisonment as established in *Lawrence v. Texas*. In fact, Senator Sessions used this landmark decision as evidence of the need to amend the U.S. Constitution to prohibit states from recognizing same-sex marriage. In the face of increasing violence against LGBTQ people across this country, Senator Sessions was a vocal opponent of the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act, referring to hate



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crimes as mere “thought crimes.” As U.S. Attorney General, Jeff Sessions would be charged with enforcing a myriad of critical criminal justice and civil rights laws that he has committed a lifetime to opposing. This report provides an overview of Senator Sessions’ ongoing attack on the LGBTQ community and the basic ideals of equality. This disturbing record calls into question his ability to accept and enforce the rule of law when it conflicts with his very public and long-held beliefs.

SENATOR SESSIONS SUPPORTS LAWS THAT CRIMINALIZE LGBTQ PEOPLE

One of the most troubling aspects of Senator Sessions’ record regarding the LGBTQ community is his repeated support and utilization of unconstitutional anti-sodomy laws to criminalize LGBTQ people and to silence and oppress LGBTQ Alabamians. Courts in states like Alabama began to use anti-sodomy laws to specifically target same-sex behavior in the early 1970s. These laws categorized same-sex sexuality as “sexual misconduct” and “deviate sexual intercourse.” Individuals arrested for violating anti-sodomy laws not only faced imprisonment and fines, but also often had their names published in local papers. This resulted in severe social ostracism, job loss, eviction, and social isolation for a generation of LGBTQ men and women. In fact, an Alabama Attorney General opinion drafted by a Sessions’ predecessor provided that individuals convicted of violating these laws also forfeited their right to vote.¹

ONE OF THE MOST TROUBLING ASPECTS OF SENATOR SESSIONS’ RECORD REGARDING THE LGBTQ COMMUNITY IS HIS **REPEATED SUPPORT AND UTILIZATION OF UNCONSTITUTIONAL ANTI-SODOMY LAWS TO CRIMINALIZE LGBTQ PEOPLE** AND TO SILENCE AND OPPRESS LGBTQ ALABAMIANS.

1 Al. Att’y Gen. Op. No. 8400169 (February 17, 1984).



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USE OF ANTI-SODOMY LAWS AS ATTORNEY GENERAL OF ALABAMA

Senator Sessions not only supported these unconstitutional and harmful laws, but utilized them as Attorney General of Alabama. In 1996, then Attorney General Sessions sought to block an LGBTQ student conference from being held at the University of South Alabama. At the time the conference was described as “an educational event, with a wide variety of seminars and speakers planned on topics including lesbian, gay, and bisexual Southern history; AIDS research and vaccines; hate crimes; cultural sensitivity in law enforcement; and an interfaith discussion on lesbian, gay, and bisexual issues.”² Despite the broad, educational nature of the conference and its stated purpose to provide LGBTQ people in the South a forum to discuss their lives and experiences, Senator Sessions worked aggressively to block the conference as promoting sexual misconduct and sodomy. Senator Sessions claimed that the conference violated a newly-passed state statute prohibiting the use of university of funds for events that promote a “lifestyle or actions prohibited by the sodomy and sexual misconduct laws.” The conference organizers were forced to challenge this state statute in federal law in order to hold the event.

In his 1996 opinion striking down the statute, Federal Judge Myron Thomas determined that it was a clear violation of the First Amendment’s guarantee for free speech and was “naked viewpoint discrimination.”³ There was growing consensus prior to Judge Thomas’s decision that the statute in question was unconstitutional and that continuing to defend the law was inadvisable. However, Senator Sessions continued to use the law to bully and intimidate LGBTQ Alabamians. In fact, Judge William Pryor provided a telling glance at Senator Sessions’ commitment to this unconstitutional law in his hearing following his nomination to federal court. Judge Pryor, who had served as Senator Sessions’ Deputy Attorney General stated that he refused to participate in the case because he agreed with the District Court’s decision regarding the constitutionality of the law and the rights of LGBTQ people to hold the conference at the school.⁴ Despite this internal discord within his own office and the withdrawal of his Deputy from the case, Attorney General Sessions continued to defend the law and as he told media at the time, “I intend to do everything I can to stop that conference.”⁵

2 *Gay, Lesbian, Bisexual Alliance v. Jeff Sessions*, 917 F. Supp. 1558 (1996).

3 *Id.* at 1561.

4 Confirmation Hearing on the Nominations of William H. Pryor, Jr. to be Circuit Judge for the Eleventh Circuit and Diane M. Stuart to be Director, Violence Against Women Office, Department of Justice: Hearing Before the Committee on the Judiciary United States Senate, Senate 108th Cong. 1 (June 11, 2003).

5 *Jeff Sessions fought as Alabama attorney general to keep an LGBT conference from meeting on a public campus*, CNN, (December 2, 2016).



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SUPPORT OF UNCONSTITUTIONAL ANTI-SODOMY LAWS AS U.S. SENATOR

Almost a decade later, Senator Sessions spoke adamantly against the U.S. Supreme Court decision prohibiting anti-sodomy laws as unconstitutional, *Lawrence v. Texas*.⁶ This case found that state anti-sodomy laws that prohibited intimate sexual conduct between consenting adults were unconstitutional under the 14th amendment. It directly overturned a 1986 case, *Bowers v. Hardwick*, that had previously upheld a Georgia anti-sodomy law.⁷ In numerous floor speeches in support of the Federal Marriage Amendment in the Spring and Summer of 2004, Senator Sessions vehemently challenged the constitutionality of *Lawrence*, conjecturing that there was no Constitutional right to liberty and privacy for same-sex couples and that the Court's decision had been based on judicial activism and politics rather than the Constitution.⁸

Senator Sessions stated that “*Lawrence* was troubling, with far-reaching ramifications.” He continued to berate the Supreme Court for divorcing morality from Constitutional law stating that, “The majority opinion in *Lawrence* divorced morality from law. The Court flatly held that morality, even long established, objectively determined moral values, cannot be a basis for law, so they struck down the Texas law. The Court said the law was a product of morality, which they found was without value as a justification for law. I kid you not, that is what they did.”⁹

Senator Sessions' inability to accept the unconstitutionality of these dehumanizing, discriminatory and life-altering laws despite a Supreme Court ruling is deeply troubling. It calls into question his ability to accept and enforce the rule of law when it conflicts with his own personal beliefs.

“*LAWRENCE WAS
TROUBLING, WITH FAR-
REACHING RAMIFICATIONS.*”

6 539 U.S. 558 (2003).

7 478 U.S. 186 (1986).

8 108th Congress, 2nd Session Issue: Vol. 150, No. 95; 108th Congress, 2nd Session Issue: Vol. 150, No. 96.

9 109th Congress, 2nd Session Issue: Vol. 152, No. 70, Page S5479 - S55481.



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SESSIONS OPPOSED THE REPEAL OF “DON’T ASK, DON’T TELL;” BELIEVED IT WORKED “PRETTY WELL”

Senator Sessions was a vocal opponent to the repeal of “Don’t Ask, Don’t Tell,” the discriminatory military policy that excluded gay and lesbian servicemembers from serving openly stating that it was against “traditional American moral principles.”¹⁰ For example, in a floor speech he stated that repeal of the policy was, “dangerous. To say this is not going to have a corrosive impact on the men and women in the military is a mistake. I think it is being raised up in importance and being raised up in the potential to damage the military by the fact that it is being rammed through before a fair and objective review of the policy is conducted...”¹¹ In the face of multiple studies and first-hand accounts undermining the efficacy and benefit of the policy, Senator Sessions insisted that it worked “pretty well,” and that to state that soldiers were forced to lie about their identities in order to comply with the policy was an “overstatement.”¹²

Senator Sessions used an Armed Services Committee hearing on the proposed policy change to openly clash with then-Chairman of the Joint Chiefs of Staff Admiral Mike Mullen, accusing Mullen of taking advantage of his rank to change policy based on personal views. The accusation drew a forceful response from Adm. Mullen: “Senator Sessions this is not about command influence. This is about leadership, and I take that very seriously.”¹³

Throughout the nomination process for Supreme Court Justice Elana Kagan, Senator Sessions frequently criticized her decision to ban military recruiters from campus when she was Dean of Harvard Law School because of “Don’t Ask, Don’t Tell.” This decision was in line with many other law school administrations across the country and was not unique to Harvard or to Justice Kagan. Senator Sessions also questioned Justice Kagan’s decision as Solicitor General not to file an appeal in *Witt v. Department of the Air Force*, a case that challenged the policy.¹⁴

“TO SAY THIS IS NOT GOING TO HAVE A CORROSIVE IMPACT ON THE MEN AND WOMEN IN THE MILITARY IS A MISTAKE.”

10 Congressional Record 105th Congress, 2nd Session Issue: Vol. 144, No. 104, page S9183.

11 111th Congress, 2nd Session Issue: Vol. 156, No. 127 Page S7241.

12 Defense Authorization Request for Fiscal Year 2011; The Future Years Defense Program; The 2011 Quadrennial Defense Review (QDR); The 2011 Ballistic Missile Defense Review (BMDR); the Don’t Ask, Don’t Tell Policy: Hearing Before Senate Armed Services Committee, 111th Cong. (February 2, 2010).

13 Mullen: Dropping ‘don’t ask’ is ‘the right thing to do,’ Military Times, (February 15, 2010)

14 111th Congress, 2nd Session Issue: Vol. 156, No. 106.



HE ALSO CONSISTENTLY CAST VOTES OPPOSING REPEAL OF THE POLICY AS PROVIDED BELOW:

111TH CONGRESS:

Voted against invoking cloture in September on S.3454 the National Defense Authorization Act, which included a provision allowing for the repeal of “Don’t Ask Don’t Tell.” (2nd session, Roll Call Vote #238)

111TH CONGRESS:

Voted against invoking cloture in December on S.3454 the National Defense Authorization Act, which included a provision allowing for the repeal of “Don’t Ask Don’t Tell.” (2nd session, Roll Call Vote #270)

111TH CONGRESS:

Voted against invoking cloture on H.R. 2965, Don’t Ask, Don’t Tell Repeal Act of 2010 (2nd Session, Roll Call Vote #279)

111TH CONGRESS:

Voted against final passage of H.R. 2965, Don’t Ask, Don’t Tell Repeal Act of 2010 (2nd Session, Roll Call Vote #281).

MARRIAGE EQUALITY

Senator Sessions has been a vocal opponent of marriage equality in the Senate and was a co-sponsor of the 2004 Federal Marriage Amendment, which would have created a federal definition of marriage excluding same-sex couples and prohibiting state-level recognition of same-sex marriage. In 2004, Sessions urged Congress to take action on the Constitutional amendment to ban same-sex marriage noting that the Defense of Marriage Act (DOMA) was not sufficient.¹⁵

Throughout his career, Senator Sessions has framed same-sex marriage (and same-sex sexuality) as deviant, explicit, and dangerous. In 2004, he argued that, “I do believe it is not disputable that adopting a same-sex marriage culture undermines and weakens marriage.” He continued, saying that he wanted “to fight to defend marriage as between a man and

15 108th Congress, 2nd Session Issue: Vol. 150, No. 95, Page S7918.



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“I DO BELIEVE IT IS NOT DISPUTABLE THAT ADOPTING A SAME-SEX MARRIAGE CULTURE UNDERMINES AND WEAKENS MARRIAGE.”

a woman.... Policies of government create tendencies in the culture. The recognition of same-sex marriages would have a tendency to weaken marriage, and that is exactly the wrong direction we ought to go.”¹⁶ Following defeat of the Federal Marriage Amendment, Senator Sessions pledged, “We will be back again and again.”¹⁷ In the aftermath of the landmark 2015 Supreme Court decision upholding the right to same-sex marriage, Sessions declared, “It is not an act of courage but supreme arrogance to pretend that the wisdom of five judges is greater than all the men and women who have voted upon this issue in the 50 states, and the men and women whose convictions have defined the course of western civilization.”¹⁸ In a Senate hearing later that summer, Sessions said, “The marriage case goes beyond what I consider to be the realm of reality,”¹⁹

AS A SENATOR HE CAST THE FOLLOWING VOTES REGARDING MARRIAGE EQUALITY:

VOTES:

108TH CONGRESS:

Voted to invoke cloture on S.J. Res 40, the Federal Marriage Amendment (2nd Session, Roll Call Vote #155)

109TH CONGRESS:

Voted to invoke cloture on S.J. Res 1, the Marriage Protection Amendment (2nd Session, Roll Call Vote #163)

16 108th Congress, 2nd Session Issue: Vol. 150, No. 96 S8007 - Page S8020.

17 Ban on Gay Marriage Fails, Washington Post, (July 15, 2004).

18 Sessions: “*The Supreme Court Has Become A Supreme Legislature*,” Office of Senator Jeff Sessions Press Release, (June 26, 2015).

19 Houston Chronicle, “*In wake of gay marriage decision, Cruz pushes ‘retention’ elections for Supreme Court justices*,” (July 22, 2015)



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SESSIONS VEHEMENTLY OPPOSED FEDERAL HATE CRIMES PROTECTIONS FOR LGBTQ PEOPLE

Senator Sessions consistently opposed and undermined efforts to pass the Matthew Shepard and James L. Byrd Hate Crimes Prevention Act. Sessions repeatedly argued that additional federal protections for LGBTQ people were not only unnecessary, but would be “special” rights carved out for a minority he viewed as politically popular. He argued repeatedly that LGBTQ people as a class were not deserving of additional federal safeguards alongside other vulnerable minority populations. In a floor statement he argued, “Instead of administering justice without fear or favor, this legislation . . . creates a new system of justice for individuals because of their sexual orientation or gender identity, providing them with a special protection, while excluding vulnerable individuals, such as the elderly or police officers or soldiers, from such special protections. I don’t think we can justify that.”²⁰

In 2009 when the Hate Crimes Prevention Act passed the Senate, Senator Sessions offered an amendment that would have allowed for the death penalty to be used in some cases under the statute. As a vocal opponent for almost a decade, many in the civil rights community perceived this amendment as an effort to undermine passage and splinter support for the Act.

“INSTEAD OF ADMINISTERING JUSTICE WITHOUT FEAR OR FAVOR, THIS LEGISLATION . . . CREATES A NEW SYSTEM OF JUSTICE FOR INDIVIDUALS BECAUSE OF THEIR SEXUAL ORIENTATION OR GENDER IDENTITY, PROVIDING THEM WITH A SPECIAL PROTECTION, WHILE EXCLUDING VULNERABLE INDIVIDUALS, SUCH AS THE ELDERLY OR POLICE OFFICERS OR SOLDIERS, FROM SUCH SPECIAL PROTECTIONS. I DON’T THINK WE CAN JUSTIFY THAT.”

20 111th Congress, 1st Session Issue: Vol. 155, No. 109 Pages S7672 - S7677.



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AS A SENATOR HE CAST THE FOLLOWING VOTES REGARDING HATE CRIMES LEGISLATION.

106TH CONGRESS:

Voted against S.Amdt.3473, the Local Law Enforcement Enhancement Act amendment to the National Defense Authorization Act (2nd Session, Roll Call Vote #136).

107TH CONGRESS:

Voted against invoking cloture on S. 625, the Local Law Enforcement Enhancement Act (2nd Session, Roll Call Vote #147)

108TH CONGRESS:

Voted against S.Amdt.3183, the Local Law Enforcement Enhancement Act amendment to the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (2nd Session, Roll Call Vote #114)

110TH CONGRESS:

Voted against invoking cloture on S.Amdt. 3035, the Matthew Shepard Local Law Enforcement Hate Crimes Prevention Act amendment to the National Defense Authorization Act for Fiscal Year 2008 (1st Session, Roll Call Vote #350)

111TH CONGRESS:

Voted against invoking cloture on S.Amdt. 1511, the Matthew Shepard Hate Crimes Prevention Act amendment to the National Defense Authorization Act for Fiscal Year 2010 (1st Session, Roll Call Vote #233)

111TH CONGRESS:

Voted against the conference report for the National Defense Authorization Act for Fiscal Year 2010, which included the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act (1st Session, Roll Call Vote #327)

HIV PREVENTION

Southern states including Alabama have become the new epicenter of the HIV epidemic in the United States. However, as Attorney General and in Congress Senator Sessions has criticized and worked to block proven HIV and STI prevention methods from receiving federal funding –



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specifically safer sex education. In October 2001, Senator Sessions offered an amendment to the Appropriations Act for the Departments of Labor, Health and Human Services, Education, and Related Agencies prohibiting use of federal funds to “promote sexual activity and behavior.” The amendment cites news reports of federal funding used to support “sexually explicit workshops for homosexual men and women.”²¹ As Attorney General of Alabama Sessions similarly used his disapproval of safer sex workshops as a foundational reason to oppose the Gay, Lesbian, Bisexual Alliance Conference at the University of South Alabama described above.²²

Comprehensive safer sex training is an essential tool to reduce transmission of the HIV virus, and bring an end to the epidemic in this country. These trainings, while pertaining to sexuality and sexual behaviors, are no more explicit than other educational programs directed towards adult audiences seeking information on sexually transmitted diseases and sexual health. However, Senator Sessions has targeted trainings directed towards the LGBTQ community specifically.

SESSIONS HAS DESCRIBED LGBTQ CULTURE AND ART AS “EXPLICIT”

In 1997, Senator Sessions also sought to terminate the National Endowment for the Arts citing the NEA’s financial support of a film by a lesbian director that confronted LGBTQ issues.²³ The film, *Watermelon Woman*, was recently described by the Hammer Museum at UCLA at an event marking the film’s 20th anniversary as “a foundational film of contemporary queer cinema.”²⁴ *Watermelon Woman* focuses on a young black lesbian in Philadelphia making a film about an obscure 1930s black actress – highlighting issues of race, sexuality, and erasure of queer black artists. Senator Sessions categorized this important film as “obscene” and “pornographic.” Senator Sessions made clear that his objection to the film was based on the inclusion of “homosexual activities.”

21 107th Congress , First Session Issue: Vol. 147 No. 148, Page S11266.

22 917 F. Supp. 1558 at 1561.

23 105th Congress, 1st Session Issue: Vol. 143, No. 122 Page S9313.

24 *Screenings: Watermelon Woman*, The Hammer Museum, available at: <https://hammer.ucla.edu/programs-events/2016/11/the-watermelon-woman/>.