

# **POLICY INITIATIVES OF PRESIDENT TRUMP'S CABINET:**

## **A PERSPECTIVE ON THE DEPARTMENT OF JUSTICE**

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*The Trump Administration is now in its second year in office, and extensive changes are being made by both the White House and the major agencies. Every month, for your background information, we are issuing a special report on one area of change. Here is the seventh report, on the Justice Department.*

As White House and congressional sources speculate that Attorney General Jefferson Beauregard Sessions may be fired after the mid-term elections in November, Americans are asking what he has accomplished in his tenure so far and how significantly his goals differ from those of Donald Trump.

Who will step in as Attorney General of the United States?

It is too early to speculate but the White House has developed a short list of candidates. We can expect a tough, no-holds barred individual to be appointed if Attorney General Sessions steps down.

Perhaps no arena of public discourse is more divisive than how the federal justice system is viewed.

Sessions was the first senator to endorse Donald Trump for president—sharing with him a deep belief that illegal immigration is destroying the Country—and he was the President's first Cabinet appointment, and has been popular with senators, because he was part of “the club,” as the Senate regards itself.

For months, Republican senators have warned the White House not to fire Sessions, suggesting nobody else could be confirmed.

Recently, that has changed.

Sen. Charles Grassley, R-Iowa, chairman of the Senate Judiciary Committee, and Sen. Lindsey Graham, R-S.C., now suggest that if President Trump doesn't get along with Sessions, it is right to get rid of him.

The President has repeatedly belittled Sessions because the Attorney General was part of his presidential campaign and thus was required by the Department of Justice rules and ethics regulations to recuse himself from anything involving special counsel Robert Mueller's investigation into whether anyone in the campaign conspired with Russians to affect the outcome of the 2016 election.

If Donald Trump were to fire Sessions, deputy attorney general Rod Rosenstein technically would be in charge. He has protected Mueller's investigation. If Rosenstein is fired, someone else could be appointed with presumable instructions to fire Mueller and stop the investigation into the campaign's remarkably high number of contacts with Russians.

Without doubt, the Russian government attempted to make certain Hillary Clinton was not elected; unknown, as of now, is whether anyone in the Trump campaign worked with Russian government agents. That would be illegal. So far Mueller's probe has resulted in indictments of 13 Russians and guilty pleas or convictions of six people close to President Trump on such charges as financial irregularities or lying to the FBI.

But there is another scenario if Sessions and Rosenstein are both fired. Under the Federal Vacancies Act, President Trump may pick anyone who holds a Senate-confirmed position to serve as acting attorney general but that person could not then be named permanently.

A natural conservative, Sessions has been careful never to criticize the President in public and repeatedly says he is carrying out Donald Trump's agenda. The only time he pushed back against President Trump's twitter insults was when he was accused of never having gotten control of the DOJ. Sessions says that is not true.

An examination of Session's record on such issues as voting rights, immigration, civil rights and changes in judicial practices shows clearly that Sessions has assiduously endorsed and implemented President Trump's goals.

Most famously, after ending the policy of "catch and release" (under which unverified arrested immigrants rounded up in immigration sweeps were permitted to go free until their trial), Sessions began a "zero tolerance" policy, saying that the Departments of Justice and Homeland Security will partner to prosecute anyone illegally crossing the Southwest border and separate children from parents.

Sessions' policy of "zero tolerance" ended up separating more than 2,500 children, including babies, from their parents in an effort to deport the parents, arguing, as did President Trump, that if parents knew they could lose their children, they would not risk losing their children by entering the Country illegally. However, many of those parents were seeking legal asylum when they were separated from their children. Despite court orders, many children have not been reunited with their parents.

Sessions also is seeking to punish so-called “sanctuary cities,” which do not aggressively seek to determine if immigrants have legal status when detained or become victims of a crime. The President appears to want to withhold federal money from such cities. In some cities Immigration and Customs Enforcement agents are arresting suspected immigrants despite legislators’ protests. Sessions directed the Justice Department to impose new conditions on federal law enforcement grants for sanctuary cities, but, so far, the courts have blocked his efforts.

Sessions is also moving to force immigration judges to process more deportation cases, which immigration lawyers worry may cause people seeking asylum not to get a fair hearing.

Earlier this summer Sessions rescinded 24 “guidance documents” for homeowners, school admissions offices, law enforcement, and small businesses. Such guidance provided explanations of what a Supreme Court decision on racial diversity means to schools, a guide to preventing employment discrimination, and a mortgage guide for homebuyers that encourages them to “shop, compare, and negotiate.” Seven were supposed to protect juveniles from mistreatment by courts and detention facilities. Sessions argued such guidelines were unnecessary, improper or outdated. Sessions earlier got rid of some guidelines used since Ronald Reagan’s tenure that made it illegal to ship guns across state lines and protected job seekers from discrimination based on their national origin.

Sessions has revived the war on drugs and has told federal prosecutors to seek the toughest possible charges and sentences in all criminal cases, changing the Obama era directive to go softer on non-violent drug offenses. He has pursued a return to three strikes and you’re out (stringent mandatory sentences after three convictions, no matter the circumstances). One of his most controversial moves has been to permit police to seize personal property of those suspected of, but not charged with crimes.

Critics note that Sessions has dropped department efforts to reform prisons by getting rid of federal contracts that require oversight of private prisons to prevent brutality and misconduct. He has supported efforts to make elections more impervious to fraud but also have made voting more difficult for some minorities. Sessions’ background in Alabama convinced him that civil rights is a state responsibility, not the federal government’s and that enforcing the Voting Rights Act was a misuse of federal authority. Under Sessions, the DOJ has stopped enforcing voter protection laws in favor of pursuing voter fraud cases. (President Trump’s commission on voter fraud was dismantled after it failed to find evidence of a problem.)

Sessions is facing criticism because he has devoted fewer Justice resources to cases involving discrimination against lesbians, gays and transgender citizens.

Sessions has pushed for a controversial immigration question on the 2020 census, which makes immigration advocates fear immigrants will not cooperate at the risk of being deported. It is also noted that a large undercounting of immigrants could hurt funding for center cities, which tend to be governed by Democrats more than Republicans.

What worries legal scholars is that the President may be creating a climate of disrespect for law enforcement that Sessions has done little, if anything, to dispel. Still to be seen is whether he will obey President's Trump's request to investigate the author of an anonymous *New York Times* oped even though no crime was committed in writing it.

Sessions laughed as a crowd he was addressing burst into chants of "lock her up," although Hillary Clinton has not been charged with any crime involving her use of a private email server (and was cleared by the FBI, whose director President Trump then fired) and has been out of office for years. The President repeatedly talks about "witch hunts" and says he intends to direct criminal investigations. He appears angry that his attorney general does not see his job as, above all, protecting the President.

President Trump's attacks on the independence of the Department of Justice, the FBI, federal prosecutors, the investigations surrounding possible infractions of the law by his campaign and those close to him may be undermining nationwide trust in the entire legal system. Some legal experts are speculating that criminals may use the President's language about such things as "flipping" witnesses and plea deals in seeking acquittal.

The confusion and complexity of the Russia investigation and its many tenets have bewildered many, causing President Trump's supporters to scoff at the probe. But when the President's personal lawyer, Michael Cohen, pleaded guilty to felonies, saying Trump had directed him to commit the crimes, the President disavowed him and said, falsely, the acts were not criminal. When President Trump's former campaign chairman, Paul Manafort, was convicted of eight felonies, the President appeared to side with him.

Millions of Americans appear to believe in both cases.