Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Rebecca Taibleson
Nominee to be U.S. Circuit Judge for the Seventh Circuit
September 24, 2025

1. You have previously spoken in favor of increasing diversity in the legal profession. In 2018, you wrote that "elite legal circles are notoriously male-dominated" and praised Justice Kavanaugh for "trying to change" that balance by hiring women to serve as a majority of his law clerks.

You further wrote that there are "structural impediments" to women's advancement in the legal profession.

a. What structural impediments do you believe exist for women to advance in the legal profession?

Response: I wrote that article to help rebut allegations that Justice Kavanaugh was anti-woman. At the time, I had a newborn baby and two toddlers. The structural impediments I was referring to were those I was facing at the time: the challenges of maintaining a legal career while giving birth to, and raising, young children.

b. Why do you believe that it is beneficial to diversify elite legal circles by including more women?

Response: No one should be excluded from the legal profession because of their sex. I have been grateful for support from mentors like Justice Kavanaugh, who helped me to navigate my career while balancing my commitments to family.

c. Do you believe that structural impediments exist for people of color to advance in the legal profession? If so, should we attempt to correct that imbalance as well ?

Response: I have not written about this issue. The cause of racial disparities, and the solution for such disparities, are important issues for consideration by the political branches. As such, it would be inappropriate for me, as a judicial nominee, to comment further on a subject of political controversy. *See* Code of Conduct of U.S. Judges, Canon 5.

2. You signed on to letters supporting various judicial and executive nominees during the Biden and Trump Administrations. Notably, you endorsed the nomination of Judge Rachel Bloomekatz to the Sixth Circuit during the Biden Administration. I was proud to support her nomination as well.

What in Judge Bloomekatz's record made you believe she would serve honorably on the bench?

Response: I clerked at the U.S. Supreme Court at the same time as Judge Bloomekatz. As the letter explained, she was a "diligent, insightful, and fair-minded" colleague, who also has a deep "commitment to Ohio" (where she now sits). The letter explained that its signatories "spann[ed] the political spectrum," and Judge Bloomekatz and I have disagreed about matters of legal interpretation. But she was qualified to serve, and Presidents have the right to choose qualified nominees who do not share my judicial philosophy.

3. As discussed at your hearing, you offered strong public support for the confirmation of then-Judge Kavanaugh to the Supreme Court.

In July 2018, you appeared on *CNN* to discuss Democrats' concerns about Justice Kavanaugh's respect for women's reproductive rights. As you likely recall, President Trump promised to appoint justices who would "automatically" overturn *Roe v. Wade*. My colleagues and I believed Justice Kavanaugh would fulfill that promise.

In response, you stated that our concerns were a "red herring" and a "distract[ion]" and claimed Justice Kavanaugh would approach precedent with an "open mind."

a. Why did you suggest that my colleagues and I were not sincere in our concerns about how Justice Kavanaugh would approach *Roe* if confirmed?

Response: I argued that the exclusive focus on a single legal case was a distraction from then-Judge Kavanaugh's long history of distinguished public service, including as an appellate judge. I did not mean to suggest that you were not sincere.

b. Do you stand by your statement that criticism of Justice Kavanaugh's views on *Roe* was a "red herring?"

Response: Yes. The Supreme Court later observed that the *Roe* issue "inflamed our national politics" and "obscured with its smoke the selection of Justices." *Dobbs v. Jackson Women's Health Org.*, 597 U.S. 215, 269 (2022) (citation omitted). That is a more eloquent version of the point I was trying to make four years earlier.

4. You have a longtime affiliation with Judge Sarah Pitlyk, who currently serves on the U.S. District Court for the Eastern District of Missouri. You have co-authored an op-ed with her, you endorsed her nomination to the district court, and you have since hosted a panel on which she was a guest.

Prior to her nomination by President Trump, Judge Pitlyk had an extreme anti-choice record. She opposed IVF on the basis that frozen embryos are human beings. She similarly opposed surrogacy and stated that it "diminishes respect for motherhood."

a. Were you aware of Judge Pitlyk's record on IVF before you joined a letter supporting her nomination?

Response: I was aware of Judge Pitlyk's legal work, which included some work on parental-rights litigation involving surrogacy.

b. Do you agree with her opposition to IVF?

Response: I do not recall Judge Pitlyk expressing policy opposition to IVF. In any event, reproductive issues like IVF are the subject of some ongoing litigation and policy debate, and it would therefore be inappropriate for me to comment further. *See* Code of Conduct of U.S. Judges, Canons 3A(6), 5.

5. During your hearing, you were asked to respond to "concern" that you are "secretly a closet liberal." In response, you emphasized that you are "conservative" and "really mean it." You acknowledged that your husband disagrees with you on political issues and then stated that you are "quite certain he is wrong on many matters of policy and law," suggesting that you have pre-judged issues that could come before you.

a. As a candidate seeking judicial office, why did you emphasize that you are "conservative" and are "quite certain" that views that differ from yours on various matters of policy and law are "wrong?"

Response: I was responding to a question from Senator Cruz.

b. Given these comments, could a litigant opposing conservative interests reasonably believe that you have not pre-judged the case and will give them a fair hearing?

Response: Yes. As a judge, I would not advocate for any particular cause or party but instead interpret and apply the law neutrally. Indeed, I hope that the debates I was describing provide additional assurance that I will give a fair hearing to all litigants.

6. In the aftermath of the January 6 attack on the U.S. Capitol, U.S. Attorney's Offices around the country prosecuted rioters for assaulting law enforcement and other criminal acts. Your U.S. Attorney's Office was involved in several cases involving January 6 rioters.

a. Did you personally handle, supervise, or advise on any cases involving individuals who were present at the January 6 riot at the U.S. Capitol?

Response: No.

Former Acting Deputy Attorney General Emil Bove previously directed a U.S. Attorney to fire dozens of line prosecutors who had worked on January 6 cases. Bove also sought

the names of thousands of FBI employees who had worked on investigations into January 6 rioters and accused these career public servants of "weaponiz[ing]" the FBI against these violent offenders.

b. As a federal prosecutor, do you believe an order firing prosecutors simply for handling cases that were assigned to them is appropriate?

Response: As a judicial candidate, and a current DOJ employee, it would be inappropriate for me to comment on this current policy debate. These matters are also related to pending litigation. *See* Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

c. Do you believe your colleagues or the FBI investigators with whom they worked on January 6 cases "weaponized" the justice system against January 6 offenders?

Response: Please see my response to Question 6.b. above.

7. Did President Trump lose the 2020 election?

Response: President Biden was certified the winner of the 2020 election. President Trump was certified the winner of the 2016 and 2024 elections.

8. Where were you on January 6, 2021?

Response: On January 6, 2021, I was in Washington, D.C., working from home for the Department of Justice.

9. Do you denounce the January 6 insurrection?

Response: I denounce any and all acts of violence against law enforcement and government officials. How the events at the Capitol on January 6, 2021, are characterized is a matter of political debate and was the subject of litigation in *Trump v. Anderson*, 601 U.S. 100 (2024). Moreover, the effect of pardons issued to those prosecuted for actions taken related to the events at the Capitol on January 6, 2021, is subject to ongoing litigation that could arise in cases that could come before me if I am confirmed to serve as a judge. Thus, under the Code of Conduct for United States Judges, it would be inappropriate for me to address these issues. *See* Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

10. Do you believe that January 6 rioters who were convicted of violent assaults on police officers should have been given full and unconditional pardons?

Response: Please see my response to Question 9 above.

11. The Justice Department is currently defending the Trump Administration in a number of lawsuits challenging executive actions taken by the Administration. Federal judges—both Republican and Democratic appointees—have enjoined some of these actions, holding that they are illegal or unconstitutional. Alarmingly, President Trump, his allies, and even some nominees before the Senate Judiciary Committee have responded by questioning whether the executive branch must follow court orders.

a. What options do litigants—including the executive branch—have if they disagree with a court order?

Response: Generally, if there is a lower-court order that binds the Executive Branch or an executive official or agency, the normal course is for the party to follow the order and seek appellate review if the party disagrees with the outcome.

b. Do you believe a litigant can ever lawfully defy an order from a lower federal court? If yes, in what circumstances?

Response: All proper parties to federal court proceedings have a responsibility to comply with lawful court orders. I am aware of scholarly work that has posited scenarios in which parties, including the Executive Branch or one of its officers, departments, or agencies, might permissibly disregard a court order. *See, e.g*., William Baude, *The Judgment Power*, 96 Geo. L.J. 1807 (2008) (lack of jurisdiction). Some litigants and jurists have also drawn a distinction between a court's binding "judgment[]" and its "statements in opinions." *Camreta v. Greene*, 563 U.S. 692, 704 (2011). And in some circumstances, defying a court order is necessary to appeal it. *See, e.g., Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). These examples are all exceptions to the general rule, however.

c. Under the separation of powers, which branch of the federal government is responsible for determining whether a federal court order is lawful?

Response: Every branch of the federal government is obligated to follow the Constitution. If federal litigation reaches the Supreme Court, then that Court's order is conclusive and must be followed. If the order relates to the interpretation of a statute with which a party might disagree, the party also might push for legislative amendment of the statute. Similarly, if a party or Congress or a state legislature believes a Supreme Court order has incorrectly applied the Constitution, such parties could push for a constitutional amendment. Congress also has legislative power to shape the Supreme Court's jurisdiction and its authority related to the issuance of orders.

12. District judges have occasionally issued non-party injunctions, which may include "nationwide injunctions" and "universal injunctions."

a. Are non-party injunctions constitutional?

Response: In *Trump v. CASA*, 145 S. Ct. 2540 (2025), the Supreme Court held that "[a] universal injunction can be justified only as an exercise of equitable authority, yet Congress has granted federal courts no such power." *Id.* at 2550. As described in *Trump v. CASA*, the equitable power of courts generally extends only to granting complete relief to the parties before the court.

b. Are non-party injunctions a legitimate exercise of judicial power?

Response: Please see my response to Question 12.a. above.

c. Is it ever appropriate for a district judge to issue a non-party injunction? If so, under what circumstances is it appropriate?

Response: Please see my response to Question 12.a. above.

d. As a litigator, have you ever sought a non-party injunction as a form of relief? If so, please list each matter in which you have sought such relief.

Response: No.

13. At any point during your selection process, did you have any discussions with anyone—including individuals at the White House, the Justice Department, or any outside groups—about loyalty to President Trump? If so, please provide details.

Response: No.

14. Does the U.S. Constitution permit a president to serve three terms?

Response: The 22nd Amendment provides that presidents may serve up to two terms.

15. On May 26, 2025, in a Truth Social post, President Trump referred to some judges whose decisions he disagrees with, as "USA HATING JUDGES" and "MONSTERS", who "…SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY…"[1]

a. Do you agree that these federal judges are "USA HATING" and "MONSTERS" who "…SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY…"?

[1] Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 26, 2025, 7:22AM), https://truthsocial.com/@realDonaldTrump/posts/114573871728757682.

Response: All federal judges must abide by the constitutional, statutory, and equitable limits on their authority, and I would seek to abide by those limits if confirmed. Consistent with the Code of Conduct for federal judges and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment further on the statements of any political figure or on any subject of political controversy. *See* Code of Conduct of U.S. Judges, Canon 5.

b. Do you believe this rhetoric endangers the lives of judges and their families?

Response: Please see my response to Question 15.a. above.

16. In addition to the President's own attacks on judges, his adviser Stephen Miller took to social media to call a federal trade court's ruling against President Trump's tariffs a "judicial coup"[2] and later reposted the images of the three judges who decided the case and wrote, "we are living under a judicial tyranny."[3]

a. Do you agree that these judges are engaged in a "judicial coup" and that "we are living under a judicial tyranny"?

Response: All federal judges must abide by the constitutional, statutory, and equitable limits on their authority, and I would seek to abide by those limits if confirmed. Consistent with the Code of Conduct for federal judges and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment further on the statements of any political figure or on any subject of political controversy. *See* Code of Conduct of U.S. Judges, Canon 5.

b. Do you believe this rhetoric endangers the lives of judges and their families?

Response: Please see my response to Question 16.a. above.

c. Would you feel comfortable with any politician or their adviser sharing a picture of you on social media if you issue a decision they disagree with?

Response: Please see my response to Question 16.a. above.

17. When, if ever, may a lower court depart from Supreme Court precedent?

[2] Stephen Miller (@StephenM), X, (May 28, 2025, 7:48PM), https://x.com/StephenM/status/1927874604531409314.
[3] Stephen Miller (@StephenM), X, (May 29, 2025, 8:25AM), https://x.com/StephenM/status/1928065122657845516.

Response: It is never appropriate for a court of appeals judge to depart from directly controlling Supreme Court precedent or a Supreme Court order in a case. *See, e.g., Rodriguez de Quijas v. Shearson/American Express, Inc.*, 490 U.S. 477, 484 (1989).

18. When, in your opinion, would it be appropriate for a circuit court to overturn its own precedent?

Response: Generally, a panel of the Seventh Circuit "will not overturn circuit precedent" without "a compelling reason." *Wilson v. Cook Cty.,* 937 F.3d 1028, 1035 (7th Cir. 2019). "[P]rinciples of stare decisis require that [the Court] give considerable weight to prior decisions unless and until they have been overruled or undermined by the decisions of a higher court, or other supervening developments, such as a statutory overruling." *McClain v. Retail Food Emp'rs Joint Pension Plan*, 413 F.3d 582, 586 (7th Cir. 2005). A circuit court may otherwise consider overruling its own precedent when sitting en banc. To determine when the en banc court should overrule a published panel decision, Federal Rule of Appellate Procedure 40 offers guideposts, including, for example, whether the decision has created a circuit split or whether the decision conflicts with other decisions from the Seventh Circuit or from the Supreme Court.

19. When, in your opinion, would it be appropriate for the Supreme Court to overrule its own precedent?

Response: In determining whether to overrule precedent, the Supreme Court applies the stare decisis factors set out in *Dobbs v. Jackon Women's Health Organization*, 597 U.S. 215, 268-290 (2022).

20. Please answer yes or no as to whether the following cases were correctly decided by the Supreme Court:

Response: As Justice Kagan explained and many other judicial nominees across administrations have reiterated, it is generally not appropriate for a judicial nominee to "grade" or give a "thumbs-up or thumbs-down" to particular precedents of the Supreme Court. Were I confirmed as a judge, all of the Supreme Court's pronouncements would be binding on me. Under the Code of Conduct for United States Judges, I have a duty as a judicial nominee to refrain from commenting on the merits or demerits of the Supreme Court's binding precedents, because doing so creates the impression that I would have difficulty applying binding law to adjudicate parties' cases. The Supreme Court's landmark decisions in *Brown* and *Loving* have been recognized by prior nominees as limited exceptions to that general principle.

a. *Brown v. Board of Education*

Response: The decision in *Brown* is so canonical and deeply rooted that the correctness of the judgment is beyond question.

b. *Plyler v. Doe*

Response: *Plyler* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

c. ***Loving v. Virginia***

Response: The decision in *Loving* is so canonical and deeply rooted that the correctness of the judgment is beyond question.

d. ***Griswold v. Connecticut***

Response: *Griswold* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

e. ***Trump v. United States***

Response: *Trump v. United States* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

f. ***Dobbs v. Jackson Women's Health Organization***

Response: *Dobbs* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

g. ***New York State Rifle & Pistol Association, Inc. v. Bruen***

Response: *Bruen* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

h. ***Obergefell v. Hodges***

Response: *Obergefell* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

i. ***Bostock v. Clayton County***

Response: *Bostock* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

j. ***Masterpiece Cakeshop v. Colorado***

Response: *Masterpiece Cakeshop* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

k. ***303 Creative LLC v. Elenis***

Response: *303 Creative* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

l. *United States v. Rahimi*

Response: *Rahimi* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

m. *Loper Bright Enterprises v. Raimondo*

Response: *Loper Bright* is binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

21. With respect to constitutional interpretation, do you believe judges should rely on the "original meaning" of the Constitution?

Response: The Supreme Court has repeatedly interpreted constitutional provisions by discerning the original meaning of the words used as understood by the public at the time of the Founding. *See, e.g., District of Columbia v. Heller*, 554 U.S. 570 (2008); *Crawford v. Washington*, 541 U.S. 36 (2004). As a lower court judge, I would follow all applicable Supreme Court and Seventh Circuit precedent in interpreting constitutional provisions, including those originalist precedents.

22. How do you decide when the Constitution's "original meaning" should be controlling?

Response: As discussed in the response to Question 21, I would follow Supreme Court precedent. In the unusual circumstance in which a lower court judge must address unanswered and open questions of constitutional interpretation, cases like *Heller* indicate that an originalist methodology is appropriate.

23. Does the "original meaning" of the Constitution support a constitutional right to same-sex marriage?

Response: The Supreme Court in *Obergefell* concluded that the Constitution provides a constitutional right to same-sex marriage, and I would faithfully apply that precedent.

24. Does the "original meaning" of the Constitution support the constitutional right to marry persons of a different race?

Response: In *Loving*, the Supreme Court invalidated a state law prohibiting interracial couples from marrying. As discussed in my answers to Question 20, and consistent with the answers of prior nominees, I can answer consistent with my duties under the Code of Conduct that *Loving* correctly reaffirmed *Brown*'s rejection of the "notion that the mere 'equal application' of a statute containing racial classifications" comports with the Fourteenth Amendment, *Loving*, 388 U.S. at 8.

25. What is your understanding of the Equal Protection and Due Process clauses of the Fourteenth Amendment?

Response: At a high level, based on Supreme Court precedent, I understand the Equal Protection Clause of the Fourteenth Amendment to limit the government's ability to classify persons (i) in a way that lacks a rational basis, *see, e.g.*, *Armour v. City of Indianapolis, Ind.*, 566 U.S. 673 (2012), or (ii) in a way that infringes fundamental rights or acts on the basis of quasi-suspect or suspect characteristics, *see, e.g., id.; Students for Fair Admission, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181 (2023). The Due Process Clause of the Fourteenth Amendment, for its part, has been interpreted by the Supreme Court to establish both procedural rules, *see, e.g.*, *Mathews v. Eldridge*, 424 U.S. 319 (1976), and substantive rights, *see, e.g.*, *Meyer v. Nebraska*, 262 U.S. 390 (1923).

26. How do these clauses apply to individuals that the Framers of the amendment likely did not have in mind, such as women? Or LGBTQ+ individuals?

Response: The Supreme Court has determined that these constitutional provisions prohibit discrimination based on sex, *see, e.g.*, *United States v. Virginia*, 518 U.S. 515 (1996), and sexual orientation, *see, e.g.*, *Romer v. Evans*, 517 U.S. 620 (1996). As with all other precedents of the Supreme Court, I would faithfully apply these decisions if confirmed. Because other matters related to this question are the subject of ongoing litigation, it would be improper for me as a judicial nominee to comment further.

27. Do you believe that judges should be "originalist" and adhere to the original public meaning of constitutional provisions when applying those provisions today?

Response: Please see my responses to Questions 21-22 above.

28. If so, do you believe that courts should adhere to the original public meaning of the Foreign Emoluments Clause when interpreting and applying the Clause today?

Response: Please see my responses to Questions 21-22 above.

29. Under the U.S. Constitution, who is entitled to First Amendment protections?

Response: The Supreme Court has held that the First Amendment protects speech regardless of whether the government considers the speech to be right or wrong, *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, Inc*., 515 U.S. 537 (1995), and even if it is outrageous, *Snyder v. Phelps*, 562 U.S. 442 (2011); *United States v. Steven*s, 559 U.S. 460 (2010). The Supreme Court has also held that First Amendment protections may apply to individuals, *McIntyre v. Ohio Elecs. Comm'n*, 514 U.S. 334 (1995), as well as corporations, *see, e.g.*, *Citizens United v Fed. Elec. Comm'n*, 558 U.S. 310 (2010). As a lower court judge, I would be bound to apply all Supreme Court precedents.

30. How would you determine whether a law that regulates speech is "content-based" or "content-neutral"? What are some of the key questions that would inform your analysis?

Response: The Supreme Court has stated that a "regulation of speech is facially content based under the First Amendment if it target[s] speech based on its communicative content—that is, if it applies to particular speech because of the topic discussed or the idea or message expressed." *City of Austin, Texas v. Reagan Nat'l Advertising of Austin, LLC*, 596 U.S. 61, 69 (2022). By contrast, a law is content-neutral if it can be "justified without reference to the content of the regulated speech." *Reed v. Town of Gilbert*, 576 U.S. 155, 166 (2015). As a lower court judge, I would be bound to apply all Supreme Court precedents.

31. What is the standard for determining whether a statement is protected speech under the true threats doctrine?

Response: The Supreme Court has stated that "true threats are serious expressions conveying that a speaker means to commit an act of unlawful violence." *Counterman v. Colorado*, 600 U.S. 66, 74 (2023). Such threats are a "historically unprotected category of communications." *Id.*

32. Is every individual within the United States entitled to due process?

Response: The Fifth and Fourteenth Amendments to the U.S. Constitution provide, respectively, that no person shall "be deprived of life, liberty or property, without due process of law" and that no State shall "deprive any person of life, liberty, or property, without due process of law." U.S. Const., amends. V, XIV. The Supreme Court has stated that "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The Supreme Court further has an extensive body of precedents discussing what due process requires in various contexts. If I am confirmed, I would faithfully apply the relevant precedents of the Supreme Court and the Seventh Circuit in addressing due process claims. To the extent this question asks about hypothetical cases or matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to comment further. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6).

33. Can U.S. citizens be transported to other countries for the purpose of being detained, incarcerated, or otherwise penalized?

Response: Please see my answer to Question 32 above.

34. The Fourteenth Amendment states: "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside."

a. Is every person born in the United States a citizen under the Fourteenth Amendment?

Response: Because this question asks about matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to opine on it. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

b. Is the citizenship or immigration status of the parents of an individual born in the United States relevant for determining whether the individual is a citizen under the Fourteenth Amendment?

Response: Because this question asks about matters that are the subject of ongoing litigation, it would be improper for me as a judicial nominee to opine on it. See Code of Conduct of U.S. Judges, Canon 3A(6).

35. Do you believe that demographic and professional diversity on the federal bench is important? Please explain your views.

Response: No one should be excluded from judicial service based on characteristics like sex, race, or ethnicity. Lawyers with different backgrounds can contribute different and valuable perspectives in litigation.

36. The bipartisan *First Step Act of 2018*, which was signed into law by President Trump, is one of the most important pieces of criminal justice legislation to be enacted during my time in Congress. At its core, the Act was based on a few key, evidence-based principles. First, incarcerated people can and should have meaningful access to rehabilitative programming and support in order to reduce recidivism and help our communities prosper. Second, overincarceration through the use of draconian mandatory minimum sentences does not serve the purposes of sentencing and ultimately causes greater, unnecessary harm to our communities. With these rehabilitative principles in mind, one thing Congress sought to achieve through this Act was giving greater discretion to judges—both before and after sentencing—to ensure that the criminal justice system effectively and efficiently fosters public safety for the benefit of all Americans.

a. How do you view the role of federal judges in implementing the *First Step Act*?

Response: As with any other constitutional or statutory provision, I would be obligated as a judge to faithfully and impartially apply the First Step Act, and governing precedents interpreting it.

b. Will you commit to fully and fairly considering the individualized circumstances of each defendant who comes before you when imposing sentences to ensure that they are properly tailored to promote the goals of sentencing and avoid terms of imprisonment in excess of what is necessary?

Response: As a nominee to the court of appeals, I do not expect to impose criminal sentences. I commit to faithfully and impartially applying all applicable laws and precedents that govern the sentencing of criminal defendants.

37. The Federalist Society seeks to "reorder[] priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law."

a. In your Questionnaire, you state that you are currently or were previously a member of the Federalist Society. What is your understanding of "traditional values"?

Response: I am unfamiliar with that statement, and not sure what precisely it is referencing.

b. President Trump wrote on Truth Social that the Federalist Society gave him "bad advice" on "numerous Judicial Nominations." He also wrote that Leonard Leo is a "sleazebag" who "probably hates America." If you are not familiar with this post, please refer to it in the footnote.[4]

i. Do you agree with President Trump that the Federalist Society provided President Trump with bad advice during his first term? Why or why not?

Response: Consistent with the Code of Judicial Conduct and positions taken by prior nominees, it would be inappropriate for me, as a pending judicial nominee, to comment on the statements of any political figure or on any subject of political controversy.

ii. Do you agree with President Trump that Leo is a sleazebag who probably hates America? Why or why not?

Response: Please see my response to Question 37.b.1. above.

iii. If you are confirmed, do you plan to remain affiliated with the Federalist Society?

Response: If confirmed, I would evaluate all of my associations and memberships for consistency with 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

[4] Donald J. Trump (@realDonaldTrump), Truth Social (May 29, 2025, 8:10 PM), https://truthsocial.com/@realDonaldTrump/posts/114593880455063168.

c. During your selection process, have you spoken to or corresponded with any individuals associated with the Federalist Society, including Leonard Leo or Steven G. Calabresi? If so, please provide details of those discussions.

Response: I have, personally and professionally, known a number of people affiliated with the Federalist Society over the years. I have maintained my correspondence with these individuals throughout my selection process.

d. Have you ever been asked to and/or provided services to the Federalist Society, including research, analysis, advice, speeches, or appearing at events?

Response: Yes, as disclosed in my Senate Judiciary Questionnaire.

e. Have you ever been paid honoraria by the Federalist Society? If so, how much were you paid, and for what services?

Response: I spoke to a student chapter of the Federalist Society in 2013, and I may have received an honorarium for doing so; I cannot recall.

38. The Teneo Network states that its purpose is to "Recruit, Connect, and Deploy talented conservatives who lead opinion and shape the industries that shape society."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Teneo Network, including Leonard Leo? If so, please provide details of those discussions.

Response: Not to my knowledge.

b. Have you ever been asked to and/or provided services to the Teneo Network, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by the Teneo Network? If so, how much were you paid, and for what services?

Response: No.

39. The Heritage Foundation states that its mission is to "formulate and promote public policies based on the principles of free enterprise, limited government, individual freedom, traditional American values, and a strong national defense." Heritage Action, which is affiliated with the Heritage Foundation, seeks to "fight for conservative policies in Washington, D.C. and in state capitals across the country."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Heritage Foundation or Heritage Action, including Kevin D. Roberts? If so, please provide details of those discussions.

Response: I have had personal and professional acquaintances affiliated with Heritage for a number of years and would have maintained correspondence with these individuals during my selection process.

b. Have you ever been asked to and/or provided services to the Heritage Foundation or Heritage Action, including research, analysis, advice, speeches, or appearing at events?

Response: Yes, as disclosed in my Senate Judiciary Questionnaire.

c. Were you ever involved in or asked to contribute to Project 2025 in any way?

Response: No.

d. Have you ever been paid honoraria by the Heritage Foundation or Heritage Action? If so, how much were you paid, and for what services?

Response: No.

40. The America First Policy Institute (AFPI) states that its "guiding principles are liberty, free enterprise, national greatness, American military superiority, foreign-policy engagement in the American interest, and the primacy of American workers, families, and communities in all we do."

a. During your selection process, have you spoken to or corresponded with any individuals associated with AFPI? If so, please provide details of those discussions.

Response: Not to my knowledge.

b. Have you ever been asked to and/or provided services to AFPI, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by AFPI? If so, how much were you paid, and for what services?

Response: No.

41. The America First Legal Institute (AFLI) states that it seeks to "oppose the radical left's anti-jobs, anti-freedom, anti-faith, anti-borders, anti-police, and anti-American crusade."

a. During your selection process, have you spoken to or corresponded with any individuals associated with AFLI, including Stephen Miller, Gene Hamilton, or Daniel Epstein? If so, please provide details of those discussions.

Response: Not to my knowledge.

b. Have you ever been asked to and/or provided services to AFLI, including but not limited to research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by AFLI? If so, how much were you paid, and for what services?

Response: No.

42. The Article III Project is an organization which claims that, "The left is weaponizing the power of the judiciary against ordinary citizens."

a. During your selection process, have you spoken to or corresponded with any individuals associated with the Article III Project, including Mike Davis, Will Chamberlain, or Josh Hammer? If so, please provide details of those discussions.

Response: Not to my knowledge.

b. Have you ever been asked to and/or provided services to the Article III Project, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by the Article III Project? If so, how much were you paid, and for what services?

Response: No.

43. The Alliance Defending Freedom (ADF) states that it is "the world's largest legal organization committed to protecting religious freedom, free speech, the sanctity of life, marriage and family, and parental rights."

a. During your selection process, have you spoken to or corresponded with any individuals associated with ADF? If so, please provide details of those discussions.

Response: Not to my knowledge.

b. Have you ever been asked to and/or provided services to ADF, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by ADF? If so, how much were you paid, and for what services?

Response: No.

44. The Concord Fund, also known as the Judicial Crisis Network, states that it is committed "to the Constitution and the Founders' vision of a nation of limited government; dedicated to the rule of law; with a fair and impartial judiciary." It is affiliated with the 85 Fund, also known as the Honest Elections Project and the Judicial Education Project.

a. During your selection process, have you spoken to or corresponded with any individuals associated with these organizations, including Leonard Leo or Carrie Severino? If so, please provide details of those discussions.

Response: Not to my knowledge.

b. Have you ever been asked to and/or provided services to these organizations, including research, analysis, advice, speeches, or appearing at events?

Response: No.

c. Have you ever been paid honoraria by these organizations? If so, how much were you paid, and for what services?

Response: No.

d. Do you have any concerns about outside groups or special interests making undisclosed donations to front organizations like the Concord Fund or 85 Fund in support of your nomination? Note that I am not asking whether you have solicited any such donations, I am asking whether you would find such donations to be problematic.

Response: I am unaware of whether outside groups or special interests might be making donations in support of my confirmation. If I am confirmed, any public advocacy for or against my confirmation will be irrelevant to my decision-making as a judge.

e. If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can

have this information when you make decisions about recusal in cases that these donors may have an interest in?

Response: I believe that both the appearance of impartiality and actual impartiality are important in maintaining public confidence in our system of justice. If confirmed, I will address all actual or potential conflicts of interest by reference to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances. To the extent that this question is addressed to whether I think such donations should be made public as a policy matter, I do not believe that it would be appropriate for me, as a judicial nominee, to address such policy questions.

f. Will you condemn any attempt to make undisclosed donations to the Concord Fund or 85 Fund on behalf of your nomination?

Please see my answers to Questions 44.d-e.

Nomination of Rebecca Taibleson
Nominee to the United States Court of Appeals for the Seventh Circuit
Questions for the Record
Submitted September 24, 2025

QUESTIONS FROM SENATOR WHITEHOUSE

Please answer each question and sub-question individually and as specifically as possible.

1. You said in your questionnaire that you met with President Trump regarding your possible nomination on August 13, 2025.

    a. **What did you discuss in that meeting?**

    Response: We spoke on the phone. He congratulated me on the forthcoming nomination, and we discussed my qualifications and background.

    b. **Did President Trump ask you to make any commitments?**

    Response: No.

2. **Have you had any conversation with President Trump or members of the Trump Administration concerning your views on any policy or case law? If so, please identify with whom you spoke and describe those conversations with specificity.**

    Response: In interviewing for the nomination with the White House Counsel's Office, I explained the appropriate role of Article III judges in our constitutional system. We also discussed my current understanding of the Supreme Court's binding precedents in a handful of areas of constitutional law.

3. You said in your questionnaire that you are a member of the Federalist Society.

    a. **Do you know Leonard Leo? If so, how do you know Leo?**

    Response: To the best of my recollection, I was once briefly introduced to Leonard Leo.

    b. **Have you ever communicated with Leo? If so, state how many times and describe the communication(s).**

    Response: No.

4. Have you ever spoken with the following individuals or groups about your nomination? If so, please describe the conversation(s) with specificity.

    a. **Leonard Leo?**

Response: No.

b. Anyone affiliated with an entity led or funded by Leonard Leo?

Response: Not to my knowledge.

c. Carrie Severino?

Response: No.

d. Mike Davis?

Response: No.

e. Anyone affiliated with The Article III Project?

Response: No.

Senate Judiciary Committee
Nomination Hearing
September 17, 2025
Questions for the Record
Senator Amy Klobuchar

For Rebecca Liane Taibleson, nominee to be U.S. Circuit Court Judge for the Seventh Circuit

1. When you were detailed to the Solicitor General's Office during the first Trump administration, you represented the President in a First Amendment suit challenging his ability to block critics on Twitter. The Second Circuit affirmed the district court's holding in that case, which ruled that Donald Trump's Twitter account was a public forum and that his blocking other users amounted to unconstitutional viewpoint discrimination.

   I want to ask about another part of First Amendment jurisprudence that is important to me, protections for the press. In *New York Times v. Sullivan*, the Court unanimously held that when newspapers report on public officials, they are only liable for untrue statements that are published with knowledge or reckless disregard for whether the statement was false.

   The Court recognized that "erroneous statement is inevitable in free debate" and "must be protected if the freedoms of expression are to have the 'breathing space' that they 'need … to survive."

   - **Do you agree with the principles laid out in the Supreme Court decision in *New York Times v. Sullivan*?**

     Response: In *New York Times v. Sullivan*, the Supreme Court held that a State cannot, under the First and Fourteenth Amendments, award damages to a public official for a defamatory falsehood relating to his official conduct unless he proves "actual malice," which means that the statement was made with "knowledge that it was false or with reckless disregard of whether it was false or not." *Sullivan* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

     As Justice Kagan explained and many other judicial nominees across administrations have reiterated, however, it is generally not appropriate for a judicial nominee to "grade" or give a "thumbs-up or thumbs-down" to particular precedents of the Supreme Court. Were I confirmed as a judge, all of the Supreme Court's pronouncements would be binding on me. Under the Code of Conduct for United States Judges, I have a duty as a judicial nominee to refrain from commenting on the merits or demerits of the Supreme Court's binding precedents, because doing so creates the impression that I would have difficulty applying binding law to adjudicate parties' cases.

   - **Do you agree with the Court that it is important to impose an "actual malice" test to allegations of libelous statements regarding public officials?**

     Response: Please see my answer to the question above.

   - **How would you approach a case that sought to limit or overturn the central holding in *New York Times v. Sullivan*?**

Response: *Sullivan* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. It is never appropriate for lower courts to depart from directly controlling Supreme Court precedent. *See, e.g.*, *Rodriguez de Quijas v. Shearson/American Express, Inc*., 490 U.S. 477, 484 (1989).

2. I have serious concerns about the use of government power to punish or suppress disfavored speech by broadcasters, news organizations, and others that criticize the President or his allies.

   - **What is your understanding of the limitations that the First Amendment places on the government's ability to use its power to punish a private party for disfavored speech?**

     Response: Generally, the First Amendment strictly limits the government's ability to regulate speech based on the viewpoint it expresses. Some categories of speech lack First Amendment protections, however, including incitement, threats, and fraud.

   - **Will you commit to following binding Supreme Court precedent regarding the First Amendment's limitations on the government's ability to use its power to punish a private party for disfavored speech?**

     Response: Yes.

3. In May, Chief Justice Roberts said that "in our Constitution…the judiciary is a co-equal branch of government, separate from the others, with the authority to interpret the Constitution as law - and strike down acts of Congress or acts of the President." He also said that part of the job of the courts was to "check the excesses of Congress or the executive and that does require a degree of independence."

   - **Do you agree with the Chief Justice?**

     Response: As Chief Justice Roberts explained, the "very essence of judicial duty" is to "say what the law is." *Marbury v. Madison*, 5 U.S. 137, 178 (1803). That duty requires independence, which is reflected in Article III's tenure and pay protections for federal judges. *See, e.g.,* Federalist No. 78.

Nomination of Rebecca Taibleson to be United States Circuit Judge for the Seventh Circuit
Questions for the Record
Submitted September 24, 2025

QUESTIONS FROM SENATOR COONS

1. **At any point during the process that led to your nomination, did you make any representations or commitments to anyone—including but not limited to individuals at the White House, at the Justice Department, or at outside groups—as to how you would handle a particular case, investigation, or matter, if confirmed? If so, explain fully.**

   Response: No.

   a. **At any point during the process that led to your nomination, were you asked about your opinion on any cases that involve President Trump or the Trump administration?**

      Response: No.

2. In your Senate Judiciary Questionnaire, you note that, on August 13, 2025, you met with President Trump concerning your nomination.

   a. **Where did that meeting occur?**

      Response: It was a phone call.

   b. **How long did that meeting last?**

      Response: About five minutes.

   c. **Who attended the meeting other than you and President Trump?**

      Response: No one.

   d. **What was discussed at the meeting?**

      Response: The President congratulated me on my forthcoming nomination, and we discussed my background and qualifications.

   e. **What questions were you asked by President Trump and how did you answer them?**

      Response: I do not recall specific questions. I generally remember the President discussing my background and qualifications.

3. You said during your Senate Judiciary Committee confirmation hearing that you are an originalist.

   a. Do you stand by that statement?

   Response: The Supreme Court has repeatedly interpreted constitutional provisions by discerning the original meaning of the words used as understood by the public at the time of the Founding. *See, e.g., District of Columbia v. Heller*, 554 U.S. 570 (2008); *Crawford v. Washington*, 541 U.S. 36 (2004). As a lower court judge, I would follow all applicable Supreme Court and Seventh Circuit precedent in interpreting constitutional provisions, including those originalist precedents.

   b. You said during your hearing that *Brown v. Board of Education* was correctly decided. Can you explain how the Court's decision in *Brown* comports with an originalist interpretation of constitutional law?

   Response: The Fourteenth Amendment states: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." The plain text of the Fourteenth Amendment, as originally understood, forbids state laws that give an abridged set of rights to one class of citizens versus another on the basis of race. *Brown*'s abolition of segregated schools vindicated that principle.

   c. You said during your hearing that *Loving v. Virginia* was correctly decided. Can you explain how the Court's decision in *Loving* comports with an originalist interpretation of constitutional law?

   Response: *Loving* correctly reaffirmed *Brown*'s rejection of the "notion that the mere 'equal application' of a statute containing racial classifications" comports with the Fourteenth Amendment. *Loving v. Virginia*, 388 U.S. 8 (1967). That holding accords with the plain text and original public meaning of the Fourteenth Amendment, for the same reasons as *Brown*'s holding does.

4. **During your hearing, you were unwilling to answer whether you believed the Supreme Court's decision in *Obergefell v. Hodges* was correct. Why?**

   Response: As Justice Kagan explained and many other judicial nominees across administrations have reiterated, it is generally not appropriate for a judicial nominee to "grade" or give a "thumbs-up or thumbs-down" to particular precedents of the Supreme Court. Many nominees have concluded that this principle applies to the Supreme Court's decision in *Obergefell*.[1] Were I confirmed as a judge, all of the Supreme Court's

[1] *See, e.g.*, Ketanji Brown Jackson, Responses to Questions for the Record, at 62, available at https://www.judiciary.senate.gov/imo/media/doc/Brown%20Jackson%20Responses1.pdf.

pronouncements would be binding on me. Under the Code of Conduct for United States Judges, I have a duty as a judicial nominee to refrain from commenting on the merits or demerits of the Supreme Court's binding precedents, because doing so creates the impression that I would have difficulty applying binding law to adjudicate parties' cases. The Supreme Court's landmark decisions in *Brown* and *Loving* have been recognized by prior nominees as limited exceptions to that general principle.

a. How many times does Justice Kennedy's decision for the Supreme Court in *Obergefell* cite *Loving v. Virginia*?

Response: Approximately eight. *Loving* is also cited approximately five times in Chief Justice Roberts's dissent.

5. During your hearing, you were unwilling to answer whether you believed the Supreme Court's decision in *Griswold v. Connecticut* was correct. Why?

Response: Please see my answer to Question 4 above.

6. With respect to substantive due process, what factors do you look to when a case requires you to determine whether a right is fundamental and protected under the Fourteenth Amendment?

Response: If I were confirmed, I would faithfully apply the standards set forth in applicable Supreme Court precedent, including as appropriate the *Dobbs* and *Glucksberg* decisions.

a. Would you consider whether the right is expressly enumerated in the Constitution?

Response: Yes.

b. Would you consider whether the right is deeply rooted in this nation's history and tradition? If so, what types of sources would you consult to determine whether a right is deeply rooted in this nation's history and tradition?

Response: Yes, following the instructions and types of sources set forth in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215, 237-240 (2022), as well as other Supreme Court precedents pertaining to this issue.

c. Would you consider whether the right has previously been recognized by Supreme Court or circuit precedent? What about the precedent of another court of appeals?

Response: Yes. If applicable precedent of the Supreme Court or the Seventh Circuit recognized the right at issue, that would control the analysis. In the absence of any such precedent, any relevant decisions of other circuits may be consulted for their persuasive value.

d. Would you consider whether a *similar* right has previously been recognized by Supreme Court or circuit precedent?

Response: Yes.

e. What other factors would you consider?

Response: I would consider any other factors identified in applicable precedent from the Supreme Court and the Seventh Circuit.

7. When, if ever, is it permissible for a circuit court to overturn its own precedent? Please explain.

Response: Generally, a panel of the Seventh Circuit "will not overturn circuit precedent" without "a compelling reason." *Wilson v. Cook Cty.,* 937 F.3d 1028, 1035 (7th Cir. 2019). "[P]rinciples of stare decisis require that [the Court] give considerable weight to prior decisions unless and until they have been overruled or undermined by the decisions of a higher court, or other supervening developments, such as a statutory overruling." *McClain v. Retail Food Emp'rs Joint Pension Plan*, 413 F.3d 582, 586 (7th Cir. 2005). A circuit court may otherwise consider overruling its own precedent when sitting en banc. To determine when the en banc court should overrule a published panel decision, Federal Rule of Appellate Procedure 40 offers guideposts, including, for example, whether the decision has created a circuit split or whether the decision conflicts with other decisions from the Seventh Circuit or from the Supreme Court.

8. Under 28 U.S.C. § 455, "[a]ny justice, judge, or magistrate judge of the United States shall disqualify [themself] in any proceeding in which [their] impartiality might reasonably be questioned." Would you recuse yourself from future cases involving former clients?

Response: Both the appearance of impartiality and actual impartiality are important to maintaining public confidence in our justice system. All former litigators have a record of previous advocacy positions, and it is incumbent upon every judge to put aside his or her personal beliefs, previous clients, and prior positions and apply the law fairly. Consistent with the Canon of Judicial Conduct and 28 U.S.C. § 455(b)(3)'s specific provision that applies to government attorneys, I would recuse from any particular proceeding or case in which I participated as counsel or provided advice. Otherwise, I will address all actual or potential conflicts of interest by reference to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

a. You wrote in your Senate Judiciary Questionnaire that you represented President Trump in front of the U.S. Supreme Court "in a First Amendment case defending his right to block third-party accounts on Twitter." Because you have weighed in explicitly on President Trump's side in a legal matter,

will you recuse yourself from cases involving challenges to President Trump's actions?

Response: Please see my answer to Question 8 above.

9. **In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a higher court? Please explain.**

Response: It is never appropriate for a court of appeals judge to depart from directly controlling Supreme Court precedent or a Supreme Court order in a case. *See Rodriguez de Quijas v. Shearson/American Express, Inc.*, 490 U.S. 477, 484 (1989). Article VI of the U.S. Constitution likewise directs that "the Judges in every State" are "bound" by the U.S. "Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States." U.S. Const., art. VI.

10. In *United States v. Virginia*, 518 U.S. 515, 536 (1996), the Court explained that in 1839, when the Virginia Military Institute was established, "[h]igher education at the time was considered dangerous for women," a view widely rejected today. In *Obergefell v. Hodges*, 576 U.S. 644, 668 (2015), the Court reasoned, "As all parties agree, many same-sex couples provide loving and nurturing homes to their children, whether biological or adopted. And hundreds of thousands of children are presently being raised by such couples. . . . Excluding same-sex couples from marriage thus conflicts with a central premise of the right to marry. Without the recognition, stability, and predictability marriage offers, their children suffer the stigma of knowing their families are somehow lesser." This conclusion rejects arguments made by campaigns to prohibit same-sex marriage based on the purported negative impact of such marriages on children.

    a. **When is it appropriate for a court to consider evidence that sheds light on our changing understanding of society?**

    Response: If confirmed, I would faithfully apply any relevant precedents of the Supreme Court and the Seventh Circuit governing the consideration of such evidence. For example, in some Eighth Amendment cases, the Supreme Court has considered similar evidence. *See, e.g., Graham v. Florida*, 560 U.S. 48, 58 (2010).

    b. **What is the role of sociology, scientific evidence, and data in judicial analysis?**

    Response: If confirmed, I would faithfully apply any relevant precedents of the Supreme Court and the Seventh Circuit governing the consideration of such evidence. The admissibility of scientific, technical, or other specialized knowledge in the determination of adjudicative facts is governed by Federal Rule of Evidence 702 and the applicable precedent construing that rule, among other standards.

11. What is the remedy if the President violates his constitutional duty to faithfully execute the laws?

Response: As a nominee to a U.S. Court of Appeals, it would not be appropriate for me to address potential remedies in that abstract hypothetical scenario.

12. Is President Trump eligible to be elected President for a third term in 2028?

Response: The 22nd Amendment prohibits any person from being "elected to the office of the President" for a third term. U.S. Const., amend. XXII.

13. Who won the 2016 U.S. Presidential Election?

Response: President Trump was certified as the winner of the 2016 presidential election and served as the 45th President of the United States. To the extent these questions seek to elicit answers that could be taken as opining on the broader political or policy debate regarding the conduct of presidential elections or on statements by any political figure, my response, consistent with the position of prior judicial nominees, is that it would be improper to offer any such comment as a judicial nominee. *See* Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

14. Who won the 2020 U.S. Presidential Election?

Response: President Biden was certified as the winner of the 2020 presidential election and served as the 46th President of the United States. To the extent these questions seek to elicit answers that could be taken as opining on the broader political or policy debate regarding the conduct of presidential elections or on statements by any political figure, my response, consistent with the position of prior judicial nominees, is that it would be improper to offer any such comment as a judicial nominee. *See* Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

15. Who won the 2024 U.S. Presidential Election?

Response: President Trump was certified as the winner of the 2024 presidential election and is now serving as the 47th President of the United States. To the extent these questions seek to elicit answers that could be taken as opining on the broader political or policy debate regarding the conduct of presidential elections or on statements by any political figure, my response, consistent with the position of prior judicial nominees, is that it would be improper to offer any such comment as a judicial nominee. *See* Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

16. Do you agree with me that the attack at the U.S. Capitol on January 6, 2021, was an insurrection? Why or why not?

Response: The characterization of the conduct of persons located at the Capitol on January 6, 2021, is a matter of significant political debate. In addition, I am aware that the

legal import of pardons issued to those prosecuted for involvement in events at the Capitol on January 6, 2021 is a matter subject to ongoing litigation and that could arise in cases were I confirmed as a judge; so too, if I am confirmed, persons present at the Capitol on January 6, 2021 could come before me as parties to future cases. As a judicial nominee it would be inappropriate to provide comments that could implicate issues or parties that might come before me. *See* Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

17. Do you think the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021, deserved to be pardoned?

Response: Please see my answer to Question 16 above.

18. If you were the President on January 20, 2025, would you have pardoned the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021?

Response: Please see my answer to Question 16 above.

19. Would it be constitutional for the President of the United States to punish a private person for a viewpoint that person expresses in a newspaper op-ed?

Response: Generally, government "[d]iscrimination against speech because of its message is presumed to be unconstitutional." *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 828 (1995). As a nominee to a U.S. Court of Appeals, it would not be appropriate for me to speculate on the application of these principles to hypothetical fact patterns.

20. Would it be constitutional for the President of the United States to terminate government contracts with a private person specifically because that person donated to members of the opposite political party?

Response: Please see my answer to Question 19 above.

21. Would it ever be appropriate for the President of the United States to punish a law firm for taking on a client that the President did not like?

Response: Attorneys are ethically charged to represent their clients even if politically unpopular. At the same time, there are many laws, rules, and ethical obligations that apply to attorneys when they are practicing or pursuing the course of a representation. *See, e.g.,* Wisconsin Rules of Professional Conduct for Attorneys Ch. 20 (rules requiring candor and fairness). As a judicial nominee, it would not be appropriate for me to address how legal rules might apply in an abstract hypothetical scenario. Nor would doing so be appropriate given that related issues are the subject of ongoing litigation.

22. Do you agree that there is a constitutional right to privacy that protects a woman's right to use contraceptives? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: The Supreme Court has extended constitutional protection to the use of contraceptives. *See Eisenstadt v. Baird*, 405 U.S. 438, 453-454 (1972); *Griswold v. Connecticut*, 381 U.S. 479, 485 (1965). I would faithfully apply those and all other binding precedents of the Supreme Court.

23. Do you agree that there is a constitutional right to privacy that protects the right to in vitro fertilization (IVF)? If you do not agree, please explain whether this right is protected or not and which constitutional rights or provisions encompass it.

Response: As the preceding answer indicates, the Supreme Court has recognized a constitutional right to privacy in certain contexts. Whether that right extends to IVF has been the subject of litigation. As a nominee to a U.S. Court of Appeals, I do not think that it would be appropriate for me to opine on matters that may be "pending or impending in any court." *See* Code of Conduct of U.S. Judges, Canon 3A(6).

24. Do you believe that immigrants, regardless of legal status, are entitled to due process and fair adjudication of their claims?

Response: Judges are to adjudicate all claims fairly, regardless of the identity of the party. *See* 28 U.S.C. § 453. As for due process, the Fifth and Fourteenth Amendments to the U.S. Constitution provide, respectively, that no person shall "be deprived of life, liberty or property, without due process of law" and that no State shall "deprive any person of life, liberty, or property, without due process of law." U.S. Const., amends. V, XIV. The Supreme Court has stated that "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The Supreme Court further has an extensive body of precedents discussing what due process requires in various contexts. If I am confirmed, I would faithfully apply the relevant precedents of the Supreme Court and the Seventh Circuit in addressing due process claims.

25. Does the public's original understanding of the scope of a constitutional provision constrain its application decades later?

Response: From the perspective of a circuit nominee, I would look to the applicable Supreme Court precedent to determine the general manner in which to approach a specific legal issue. In some areas, such as the Confrontation Clause, the Supreme Court has treated originalist principles as highly important. *See, e.g., Crawford v. Washington*, 541 U.S. 36 (2004). In other areas, such as the Eighth Amendment, the Supreme Court has adopted more of an evolving-standards approach. *See, e.g., Roper v. Simmons*, 543 U.S. 551 (2005).

a. In your Senate Judiciary Committee confirmation hearing, you told Senator Kennedy that the Federalist Papers could be used for constitutional interpretation because they help elucidate the original public meaning, but that legislative history should be subordinated when interpreting statutes. What's the difference?

Response: The Constitution was ratified by the people after a public debate, in which the Federalist Papers featured prominently. Those Papers therefore help to inform the original public meaning of the Constitution's provisions. Federal statutes, by contrast, have the force of law only after satisfying the requirements of bicameralism and presentment in Article I, Section 7. The intentions of individual legislators, as reflected in legislative history, do not have the force of law. While that legislative history may shed some light on the statutory text, it usually does not directly elucidate original public meaning.

26. What sources would you employ to discern the contours of a constitutional provision?

Response: Please see my answer to Question 25 above.

27. In your Senate Judiciary Committee confirmation hearing, you told Senator Moody, "things like textualism and originalism help judges ensure that they are applying the law as written and not importing their own moral or policy preferences into cases." What role does morality play in determining whether a challenged law or regulation is unconstitutional or otherwise illegal?

Response: Judges' proper role in our constitutional system is to evaluate legal claims and to determine the merits of those claims based on arguments presented by the parties, in light of applicable law, including the binding precedents of the Supreme Court and the text of the statute, regulation, or constitutional provision involved. Judges should not decide cases based on their personal views regarding morality or policy preferences.

28. In your Senate Judiciary Committee confirmation hearing, you told Senator Schmitt, "I'm a textualist and an originalist, but I do have some common-sense guardrails in me." What role, if any, should the practical consequences of a particular ruling play in a judge's rendering of a decision?

Response: In certain contexts, such as in assessing the propriety and scope of injunctive relief, a court's application of the relevant legal standards requires consideration of the practical consequences of a particular order on the parties and the public. *See, e.g., Winter v. Natural Res. Def. Council, Inc*., 555 U.S. 7, 20 (2008). Many statutes also require consideration of practical consequences; the Bail Reform Act, for example, requires judges to consider the likely consequences of releasing a criminal defendant pending trial. Unless there is a legal basis to consider such consequences, however, a court must apply the relevant legal standards faithfully and impartially, even if he or she might think that the practical consequences of following the law are undesirable as a policy matter.

29. What role, if any, should empathy play in a judge's decision-making process?

Response: Judges' role in our constitutional system is to evaluate legal claims and to determine the merits of those claims based on arguments presented by the parties, in light of applicable law, including the binding precedents of the Supreme Court and the text of the statute, regulation, or constitutional provision involved. They should not decide cases based on their personal views or their sympathy for one party. *Cf.* 28 U.S.C. § 453. But judges should keep in mind that their decisions have real-world effects, and endeavor to reach and explain their decisions in ways that are fairly reasoned, grounded in the law, and readily accessible to the parties and the public.

30. What role, if any, should a judge's personal life experience play in his or her decision-making process?

Response: Ideally, a judge's personal life experience will prepare him or her to hear cases with courteousness to all parties, diligence, integrity, and wisdom.

31. Should you be confirmed, would you ever inform parties before you that they do not need to comply with your orders?

Response: There are procedural mechanisms by which judges may stay or defer a party's obligation to comply with a judicial order. *See, e.g.,* Fed. R. Civ. P. 62. As a judicial nominee, it would not be appropriate for me to opine on those or other abstract legal issues that might apply in a hypothetical case.

a. Under what circumstances would you tell a party they could decide not to comply with your orders?

Response: Please see my answer to Question 31 above.

b. What would you do if a party refuses to comply with one of your orders?

Response: Please see my answer to Question 31 above.

32. When is it appropriate for an en banc federal appellate court to reconsider a panel decision?

Response: Please see my answer to Question 7 above.

33. When it comes to conducting yourself ethically, who in the legal profession do you see as a role model?

Response: My father, Michael Krauss. My father was a long-time law professor at George Mason, where he taught Legal Ethics, among other subjects. I learned from him to use my legal skills and education only for the public good, to conduct my work with integrity, and to respect the rule of law.

34. Discuss your proposed hiring process for law clerks.

Response: Out of respect for the Senate's pending consideration of my nomination, I have not yet generated a proposed hiring process for law clerks. Generally, I would seek to evaluate clerks based upon their entire applications, recommendations, and supporting materials. I would seek to assess who would be the best fit for the job, understand the proper role of a law clerk in our judicial system, and get along well with other law clerks and members of chambers.

a. Do you think law clerks should be protected by Title VII of the Civil Rights Act?

Response: I do not believe that it would be appropriate for me, as a judicial nominee, to address policy questions relating to whether to amend Title VII's existing exemption for the federal judiciary. If confirmed, I will endeavor to ensure that discrimination has no place in my chambers.

35. In the past year, multiple studies have revealed ongoing problems with workplace conduct policies and outcomes in the federal judiciary. In a national climate survey, hundreds of judiciary employees reported that they experienced sexual harassment, discrimination, or other forms of misconduct on the job. A study by the Federal Judicial Center and the National Academy of Public Administration found the branch has failed to set up trusted reporting systems for employees who experience misconduct or ensure those handling complaints are adequately trained.

a. If confirmed, what proactive steps would you take to ensure that the clerks and judicial assistants who work in your chambers are treated with respect and are not subject to misconduct?

Response: If I am confirmed, I will coordinate on these matters with all relevant authorities, including the Administrative Office of the Courts and the Chief Judge of the Seventh Circuit, to implement appropriate policies and practices to ensure that clerks and judicial assistants who work in my chambers are treated with respect and are not subject to misconduct.

b. What proactive steps would you take to ensure that any workplace-related concerns that your clerks and judicial assistants may have are fully addressed?

Response: Please see my response to Question 35.a.

c. If you are confirmed and you later hear from a colleague or your chambers staff that another judge is acting inappropriately, what steps would you take to help ensure the problem is addressed?

Response: Please see my response to Question 35.a.

Questions for the Record for Rebecca Taibleson
Submitted by Senator Richard Blumenthal
September 24, 2025

1. Since beginning his second term, President Trump has been using the powers of his office to squash dissent. In the face of these threats and attacks, it is more important than ever for the judiciary to steadfastly protect Americans' rights to hold their government to account. This is true both on and offline—especially because the President uses his personal social media platform to make official government declarations.

   Yet, when you worked in the Office of the Solicitor General, you were a principal author of a petition for a writ of certiorari asking the Supreme Court to allow President Trump to block critics from his Twitter account, where he often made official government announcements.

   a. Do Americans have the right under the First Amendment to access the official statements of their elected officials?

   Response: That is not the focus of the First Amendment as it has been interpreted by the Supreme Court; instead, the Amendment protects Americans' rights to speak *themselves*. The "Constitution does not require all public acts to be done in town meeting or an assembly of the whole." *Minnesota State Bd. for Cmty. Colls. v. Knight*, 465 U.S. 271, 284 (1984).

   b. Do Americans have the right under the First Amendment to criticize their government?

   Response: Yes.

   c. Do Americans have these rights to access official statements and criticize government officials without fear of retribution?

   Response: I do not think this question is premised on a correct characterization of the First Amendment. In any event, government "[d]iscrimination against speech because of its message is presumed to be unconstitutional." *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 828 (1995). That being said, the First Amendment does not grant people the right to speak in nonpublic fora, nor does it constrain the conduct of private actors. *See, e.g.*, *Manhattan Community Access Corp. v. Halleck*, 587 U.S. 802 (2019); *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37 (1983).

   d. Can the President avoid respecting these First Amendment rights by using his personal social media platform?

Response: Please see my response to Question 1.c above. As a nominee to a U.S. Court of Appeals, it would not be appropriate for me to speculate on the application of these principles to hypothetical fact patterns.

e. Do you believe that it would be your obligation as a judge to faithfully protect Americans' First Amendment rights, even in the face of potential political pressure?

Response: If confirmed, I would faithfully follow all applicable Supreme Court and Seventh Circuit precedents on the First Amendment.

2. On September 15, 2025, Attorney General Pam Bondi tried to distinguish between "free speech" and "hate speech," claiming that the Department of Justice would prosecute the latter.

Attorney General Bondi received criticism for her assertion from across the political spectrum. While hate speech is odious, it is not exempt from First Amendment protections unless it is harassment, a true threat, or an incitement to violence.

a. Do you believe that there is a legal distinction between "free speech" and "hate speech"?

Response: I understand the phrase "hate speech" to refer colloquially to very negative statements about a particular group or person. The phrase "free speech," by contrast, is a legal concept that refers to the speech protected by the First Amendment.

b. Can the Department of Justice prosecute hate speech absent threats, harassment, or incitement of violence?

Response: The categories of speech that are subject to prosecution (or civil liability) include incitement, fraud, perjury, obscenity, child pornography, threats, and fighting words. Speech—including "hate speech"—that falls into those categories may be subject to criminal or civil liability.

3. If confirmed, will you recuse yourself from any case where a reasonable person, knowing all the relevant facts, might question your impartiality, even if you personally believe you can be fair?

Response: I believe that both the appearance of impartiality and actual impartiality are important in maintaining public confidence in our system of justice. If confirmed, I will address all actual or potential conflicts of interest by reference to 28 U.S.C. § 455, the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances.

a. If confirmed, will you recuse yourself from cases involving individuals, organizations, or entities to which you or your family members have made political contributions or provided political support?

Response: Please see my response to Question 3 above.

b. If confirmed, will you recuse yourself from cases involving former clients, former law firms, or organizations with which you have had significant professional relationships?

Response: Please see my response to Question 3 above.

c. If confirmed, will you recuse yourself from cases involving personal friends, social acquaintances, or individuals with whom you have ongoing personal relationships?

Response: Please see my response to Question 3 above.

4. If confirmed, will you commit to avoiding all *ex parte* communications about pending cases, including informal discussions at social events or professional gatherings?

Response: If confirmed, I would faithfully adhere to all ethical rules and obligations governing judicial conduct.

d. If confirmed, will you avoid discussing pending cases or judicial business with elected officials, political appointees, or political operatives?

Response: Please see my response to Question 4 above.

e. If confirmed, will you commit to declining meetings or communications with lobbyists, advocacy groups, or special interests seeking to influence your judicial decisions?

Response: Please see my response to Question 4 above.

f. If confirmed, will you refrain from making public statements about legal or political issues that could reasonably be expected to come before your court?

Response: Please see my response to Question 4 above.

5. If confirmed, will you commit to filing complete and accurate financial disclosure reports that include all required information about your financial interests and activities?

Response: Yes.

g. If confirmed, will you decline all gifts from parties who might appear before your court or who have interests that could be affected by your judicial decisions?

Response: Please see my response to Question 4 above.

h. If confirmed, will you decline privately funded travel, hospitality, or entertainment that could create an appearance of impropriety or special access?

Response: Please see my response to Question 4 above.

i. If confirmed, will you ensure that any teaching, speaking, or writing activities comply with judicial ethics requirements and do not create conflicts with your judicial duties?

Response: Please see my response to Question 4 above.

6. The House Republican-authored budget reconciliation bill had included a provision that would have limited federal judges' ability to hold government officials in contempt. While the Senate Parliamentarian ruled that the provision violated the Byrd Rule, and it was, therefore, removed, it would have prohibited federal courts from issuing contempt penalties against officials who disobey preliminary injunctions or Temporary Restraining Orders if the party seeking the order did not provide financial security to cover potential future damages for wrongful enjoining.

   The contempt power was first codified in law in the Judiciary Act of 1789. In 1873, the Supreme Court described it as "inherent in all courts" and "essential to the preservation of order in judicial proceedings and to the enforcement of the judgements, orders, and writs of the courts, and consequently to the due administration of justice." Yet House Republicans are seeking to exempt government officials from this key tool for judicial enforcement.

   a. Do you believe the contempt power is "essential . . . to the due administration of justice[?]"

   Response: The Supreme Court has described it in that way. *See, e.g.*, *Ex parte Robinson*, 86 U.S. 505, 510 (1873).

   b. Do you believe that federal judges should be limited in their ability to hold government officials who defy court orders in contempt?

   Response: As the Supreme Court has explained, courts have "embraced an inherent contempt authority as a power 'necessary to the exercise of all others.'" *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 831-832

(1994) (quoting *United States v. Hudson*, 7 Cranch 32, 34 (1812)). Yet the Supreme Court has also cautioned that the exercise of the contempt power is "a delicate one, and care is needed to avoid arbitrary or oppressive conclusions." *Bloom v. Illinois*, 391 U.S. 194, 202 (1968). I would follow all governing rules and precedents relating to the issue of judicial contempt orders should a case implicating the issue come before me as a judge. Beyond that, consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a judicial nominee, to comment on any subject of political controversy or to express a position regarding matters of public policy or any ongoing litigation. *See* Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

7. If confirmed, you, like all other members of the federal bench, would have the ability to issue orders. On February 9, 2025, Vice President Vance posted on X that "[j]udges aren't allowed to control the executive's legitimate power." This raises an extremely concerning specter of Executive Branch defiance of court orders.

a. If confirmed, would you have the ability to issue orders?

Response: Yes.

i. Would you have the ability to enforce those orders?

Response: Generally, federal courts seek to ensure compliance with court orders through tools like status reports and hearings, sanctions, and civil and criminal contempt procedures.

ii. What powers would you have to enforce those orders?

Response: Please see my response to Question 7.a.i. above.

b. Does there exist a legal basis for federal Executive Branch officials to defy federal court orders? If so, what basis and in which circumstances?

Response: If there is a court order that binds the Executive Branch or an executive official or agency, the normal course is for the party to follow the order and seek appellate review if the party disagrees with the outcome.

I am aware of scholarly work that has posited scenarios in which parties, including the Executive Branch or one of its officers, departments, or agencies, might permissibly disregard a court order. *See, e.g.*, William Baude, *The Judgment Power*, 96 Geo. L.J. 1807 (2008) (lack of jurisdiction). Some litigants and jurists have also drawn a distinction between a court's binding "judgment[]" and its "statements in opinions." *Camreta v. Greene*, 563 U.S. 692, 704 (2011). And in some circumstances, defying a court order is necessary to appeal it. *See, e.g., Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). These examples are all exceptions to the general rule, however.

Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to hypothesize an exhaustive list of fact- and case-specific situations in which it might be legally appropriate for a government official to ignore or defy a court order.

c. Does there exist a legal basis for state officials to defy federal court orders? If so, what basis and in which circumstances?

Response: Please see my response to Question 7.b. above.

d. What would make a court order unlawful?

Response: It depends on what "unlawful" means in this context. An order might be "unlawful," for example, if it is issued without jurisdiction.

i. What is the process a party should follow if it believes a court order to be unlawful?

Response: Please see my response to Question 7.b. above.

ii. Is it ever acceptable to not follow this process? When and why?

Response: Please see my response to Question 7.b. above

8. Were you in Washington, D.C. on January 6, 2021?

Response: Yes.

a. Were you inside the U.S. Capitol or on the U.S. Capitol grounds on January 6, 2021?

Response: No.

Senator Mazie K. Hirono
Senate Judiciary Committee

Nomination Hearing
Questions for the Record for Rebecca Taibleson

1. As part of my responsibility as a member of this committee to ensure the fitness of nominees, I ask each nominee to answer two initial questions:
    a. **Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?**

       Response: No.

    b. **Have you ever faced discipline or entered into a settlement related to this kind of conduct?**

       Response: No.

2. While working in the Solicitor General's office, you defended President Trump in a case called *Knight First Amendment Institute v. Trump*, where plaintiffs challenged President Trump's ability to block his own critics on Twitter.
    a. **How did the district court rule in that case?**

       Response: The district court granted partial summary judgment for the plaintiffs, issuing a declaratory judgment that the blocking of the individual plaintiffs' accounts from the @realDonaldTrump account violated the First Amendment.

    b. **How did the Second Circuit rule in that case?**

       Response: The Second Circuit affirmed the district court.

    c. **Is the President bound by the courts' rulings?**

       Response: No. The Supreme Court vacated the Second Circuit's judgment and remanded with instructions to dismiss the case as moot.

    d. **Is the President allowed to censor the constitutionally protected free speech of someone who disagrees with him or criticizes him?**
        i. **If yes, in what circumstances is the President allowed to do so?**

       Response: "[T]he Free Speech Clause prohibits only *governmental* abridgment of speech," not "*private* abridgment of speech." *Manhattan Community Access Corp. v. Halleck*, 587 U.S. 802, 808 (2019). "While public officials can act on behalf of the State, they are also private citizens with their own constitutional rights." *Lindke v. Freed*, 601 U.S. 187, 196 (2024). Thus when acting or speaking

in his personal capacity, the President is not subject to the First Amendment restrictions that apply to official government actions. In his official capacity, however, neither the President nor any other government official may engage in "abridgment of speech" that violates the First Amendment. The Supreme Court has explained that differentiating private conduct from state action can "demand[] a fact-intensive inquiry," especially in the context of social-media accounts. *Lindke*, 601 U.S. at 197.

3. **Do you believe *Brown v. Board of Education* was correctly decided?**

   Response: Yes. *Brown v. Board of Education*, 347 U.S. 483 (1954), is a landmark ruling that promotes racial equality and rejected the manifestly unjust and incorrect separate-but-equal rule of *Plessy v. Ferguson*. Consistent with the position of prior judicial nominees, I consider *Brown* to be one of the limited exceptions to the general principle that a judicial nominee should not comment on the Supreme Court's precedents. I agree with prior nominees that the underlying premise of the *Brown* decision—*i.e.*, that "separate but equal is inherently unequal"—is beyond dispute, and that judges can express their agreement with that principle without calling into question their ability to apply the law faithfully to cases raising similar issues. Therefore, just as other nominees for judicial office have done, I can confirm that *Brown* was rightly decided consistent with the Code of Conduct.

4. **Do you believe *Loving v. Virginia* was correctly decided?**

   Response: Yes. In *Loving v. Virginia*, 388 U.S. 1 (1967), the Supreme Court invalidated a state law prohibiting interracial couples from marrying. Like prior nominees, I consider *Loving*, like *Brown*, to be one of the limited exceptions to the general principle that a judicial nominee should not comment on the Supreme Court's precedents. In my view, *Loving* correctly reaffirmed *Brown*'s rejection of the "notion that the mere 'equal application' of a statute containing racial classifications" comports with the Fourteenth Amendment, *Loving*, 388 U.S. at 8. Consistent with the approach of prior nominees, I thus can articulate *Loving*'s correctness consistent with my duties under the Code of Conduct.

5. **Do you believe *Obergefell v. Hodges* was correctly decided?**

   Response: *Obergefell v. Hodges* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it.

6. **If you answered questions 3 and/or 4 with a "yes" or "no" but did not similarly answer question 5 with a "yes" or "no," please explain how you determined you could answer questions 3 and/or 4 in this way but not question 5.**
   a. **If you have declined to answer on the basis that the issue may come before you (or another court), please identify the case(s) currently pending in the federal courts that raise this issue. If you cannot identify any such cases, please explain your basis for declining to answer the question.**

Response: As Justice Kagan explained and many other judicial nominees across administrations have reiterated, it is generally not appropriate for a judicial nominee to "grade" or give a "thumbs-up or thumbs-down" to particular precedents of the Supreme Court. Many nominees have concluded that this principle applies to the Supreme Court's decision in *Obergefell*.[1] Were I confirmed as a judge, all of the Supreme Court's pronouncements would be binding on me. Under the Code of Conduct for United States Judges, I have a duty as a judicial nominee to refrain from commenting on the merits or demerits of the Supreme Court's binding precedents, because doing so creates the impression that I would have difficulty applying binding law to adjudicate parties' cases. As explained above, *Brown* and *Loving* have been recognized by prior nominees as the limited exceptions to that general principle.

[1] *See, e.g.*, Ketanji Brown Jackson, Responses to Questions for the Record, at 62, available at https://www.judiciary.senate.gov/imo/media/doc/Brown%20Jackson%20Responses1.pdf.

Nomination of Rebecca L. Taibleson
United States Court of Appeals for the Seventh Circuit
Questions for the Record
Submitted September 23, 2025

QUESTIONS FROM SENATOR BOOKER

1. The American Bar Association (ABA) Standing Committee on the Federal Judiciary has conducted extensive peer evaluations of the professional qualifications of a president's nominees to become federal judges for seven decades. This practice has endured through 18 presidential administrations, under Republican and Democratic presidents.

   On May 29, 2025, Attorney General Pam Bondi ended this longstanding practice when she informed the ABA that, "[T]he Office of Legal Policy will no longer direct nominees to provide waivers allowing the ABA access to nonpublic information, including bar records. Nominees will also not respond to questionnaires prepared by the ABA and will not sit for interviews with the ABA."[1]

   a. Do you agree with AG Bondi that "the ABA no longer functions as a fair arbiter of nominees' qualifications and its ratings invariably and demonstrably favor nominees put forth by Democratic administrations"?

   Response: It would be inappropriate for me, as a judicial nominee, to opine on the statements of any political figure or on any subject of political controversy.

2. How would you characterize your judicial philosophy?

Response: The Constitution charges federal judges with exercising Article III's "judicial power." That judicial power is limited to interpreting and applying the law, rather than making or changing it. To carry out that obligation, judges must neutrally and impartially apply any governing constitutional, statutory, or regulatory text, as well as follow all precedents of the Supreme Court and binding circuit precedent. Judges must refrain from deciding cases based on their own policy or moral preferences.

3. What do you understand originalism to mean?

Response: Originalism is a method of constitutional interpretation that focuses on the original public meaning of constitutional provisions.

4. Do you consider yourself an originalist?

Response: The Supreme Court has repeatedly interpreted constitutional provisions by discerning the original meaning of the words used as understood by the public at the time of the Founding. *See, e.g.*, *District of Columbia v. Heller*, 554 U.S. 570 (2008); *Crawford v.*

[1] Letter from Attorney General Pam Bondi to William R. Bay, President, American Bar Association (May 29, 2025), https://www.justice.gov/ag/media/1402156/dl?inline.

Washington, 541 U.S. 36 (2004). As a lower court judge, I would follow all applicable Supreme Court and Seventh Circuit precedent in interpreting constitutional provisions, including those originalist precedents.

5. What do you understand textualism to mean?

Response: Textualism is a method of interpreting law that focuses on the text as it is written, with the meaning it had at the time of its enactment.

6. Do you consider yourself a textualist?

Response: In approaching statutory interpretation, I would follow the methodological instructions of the Supreme Court. The Supreme Court has instructed that the best meaning of statutory text, assessed at the time of enactment, is generally entitled to controlling weight. That is the approach I would follow, along with any other instructions relevant to specific statutes.

7. Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. Some federal judges consider legislative history when analyzing the meaning of a statute.

a. If you are confirmed to serve on the federal bench, would you consult and cite legislative history to analyze or interpret a federal statute?

Response: If confirmed, I would faithfully apply all relevant precedent of the Supreme Court and the Seventh Circuit concerning the use of legislative history. Legislative history lacks the force of law, and it cannot overcome the plain language of a statute. *See, e.g.*, *Whitfield v. United States*, 543 U.S. 209, 215 (2005) (where the meaning of statutory text "is plain and unambiguous, we need not accept [a party's] invitation to consider the legislative history"). When legislative history is properly considered, it "is meant to clear up ambiguity, not create it." *Milner v. Dep't of Navy*, 562 U.S. 562, 574 (2011).

b. Do you believe that congressional intent matters when interpreting a statute? Why or why not.

Response: The intentions of individual legislators do not have the force of law. While legislative history may shed some light on the statutory text, it usually does not directly elucidate original public meaning.

8. According to an academic study, Black men were 65 percent more likely than similarly-situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.[2]

[2] Sonja B. Starr & M. Marit Rehavi, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).

a. What do you attribute this to?

Response: Any unfair treatment of individuals on the basis of race is a significant cause for concern. The Supreme Court has held that the "core purpose" of the Fourteenth Amendment was "doing away with all governmentally imposed discrimination based on race." *Students for Fair Admissions, Inc. v. President and Fellows of Harvard College*, 600 U.S. 181, 206 (2023). Federal judges should conduct all judicial duties free from bias. Otherwise, the cause of racial disparities, and the solution for such disparities, are important issues for consideration by the political branches. As such, it would be inappropriate for me, as a judicial nominee, to comment further on a subject of political controversy. *See* Code of Conduct of U.S. Judges, Canon 5.

9. A recent report by the United States Sentencing Commission observed demographic differences in sentences imposed during the five-year period studied, with Black men receiving federal prison sentences that were 13.4 percent longer than white men.[3]

a. What do you attribute this to?

Response: Please see my response to Question 8 above.

10. What role do you think federal judges, who review difficult, complex criminal cases, can play in ensuring that a person's race did not factor into a prosecutor's decision or other instances where officials exercise discretion in our criminal justice system?

Response: All participants in the criminal justice system, and especially judges, should be aware of the possibility of any type of bias and endeavor to minimize it. Various legal doctrines, like the *Batson* doctrine, help guard against racial bias in the criminal justice system, and appellate judges should faithfully apply those legal principles.

11. Do you believe it is an important goal for there to be demographic diversity in the judicial branch? Why or why not.

Response: No one should be excluded from judicial service based on characteristics like sex, race, or ethnicity. Lawyers with different backgrounds can contribute different and valuable perspectives in litigation.

12. Please indicate whether you have ever published written material or made any public statements relating to the following topics. If so, provide a description of the written or public statement, the date and place/publication where the statement was made or published, and a summary of its subject matter. Mere reference to the list of publications and statements provided in your Senate Judiciary Questionnaire is insufficient; provide specific responses.

[3] U.S. SENTENCING COMM'N, DEMOGRAPHIC DIFFERENCES IN SENTENCING 2 (Nov. 2023), https://www.ussc.gov/sites/default/files/pdf/research-and-publications/research-publications/2023/20231114_Demographic-Differences.pdf.

If you have not disclosed a copy of the publication or a transcript of the statement to the Judiciary Committee, please attach a copy or link to the materials and please explain why you have not previously disclosed them.

a. Abortion
b. Affirmative action
c. Contraceptives or birth control
d. Gender-affirming care
e. Firearms
f. Immigration
g. Same-sex marriage
h. Miscegenation
i. Participation of transgender people in sports
j. Service of transgender people in the U.S. military
k. Racial discrimination
l. Sex discrimination
m. Religious discrimination
n. Disability discrimination
o. Climate change or environmental disasters
p. "DEI" or Diversity Equity and Inclusion

Response: As noted on my Senate Judiciary Questionnaire, I have spoken or written about the law. Those discussions and writings may have touched on the issues listed above, especially "firearms" (which might be read to include Second Amendment litigation and litigation over the meaning of certain federal criminal statutes, both of which I have discussed). I do not recall speeches or writings expressing *policy* views about these topics, however.

For a full accounting of the topics I have addressed, please refer to the list of publications and statements provided in my Senate Judiciary Questionnaire and the corresponding recordings or attachments. To the best of my knowledge, the answers provided on my Senate Judiciary Questionnaire and supplement disclose all publications and public statements.

13. Under what circumstances would it be acceptable for an executive branch official to ignore or defy a federal court order?

Response: If there is a court order that binds the Executive Branch or an executive official or agency, the normal course is for the party to follow the order and seek appellate review if the party disagrees with the outcome.

I am aware of scholarly work that has posited scenarios in which parties, including the Executive Branch or one of its officers, departments, or agencies, might permissibly disregard a court order. *See generally, e.g.*, William Baude, *The Judgment Power*, 96 Geo. L.J. 1807 (2008) (lack of jurisdiction). Some litigants and jurists have also drawn a distinction between a court's binding "judgment[]" and its "statements in opinions." *Camreta v. Greene*, 563 U.S. 692, 704 (2011). And in some circumstances, defying a court order is necessary to appeal it. *See, e.g.*, *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009). These examples are all exceptions to the general rule, however.

Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to hypothesize an exhaustive list of fact- and case-specific situations in which it might be legally appropriate for a government official to ignore or defy a court order.

a. If an executive branch official ignores or defies a federal court order, what legal analysis would you employ to determine whether that official should be held in contempt?

Response: As an appellate judge, if confirmed, my primary role would be to review orders issued by district court judges. As a general matter, district courts may seek to enforce compliance with court orders through civil and criminal contempt procedures. *See Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 831 (1994); *Michaelson v. United States ex rel. Chicago, St. P., M., & O.R. Co*., 266 U.S. 42, 45 (1924). The exercise of the contempt power is "a delicate one, and care is needed to avoid arbitrary or oppressive conclusions." *Bloom v. Illinois*, 391 U.S. 194, 202 (1968). I would follow all governing rules and precedents relating to the issue of judicial contempt orders should a case implicating the issue come before me.

b. Is there any legal basis that would allow an executive branch official to ignore or defy temporary restraining orders and preliminary injunctions issued by federal district court judges? Please provide each one and the justification.

Response: Please see my response to Question 13 above.

14. Does the president have the power to ignore or nullify laws passed by Congress?

Response: The President has the constitutional authority to veto legislation passed by Congress. U.S. Const. art. I, § 7, cl. 2. Otherwise, the Take Care Clause provides that the President "shall take Care that the Laws be faithfully executed." U.S. Const. art. II, § 3, cl. 5. Under this provision, the Executive Branch has discretion to prioritize enforcement and prosecution of federal law. *See, e.g.*, *United States v. Texas*, 599 U.S. 670, 679 (2023).

15. Does the president have the power to withhold funds appropriated by Congress?

Response: This question relates to issues that are the subject of litigation, so it is inappropriate for me to comment. *See* Code of Conduct of U.S. Judges, Canon 3A(6).

16. Does the president have the power to discriminate by withholding funds against state or local jurisdictions based on the political party of a jurisdiction's elected officials?

Response: Please see my response to Question 15 above.

17. Does the Supremacy Clause of the U.S. Constitution establish that federal laws supersede conflicting state laws?

Response: Generally, yes. The Supremacy Clause provides that the Constitution, along with federal laws and treaties made under its authority, constitutes the "supreme Law of the Land." Art. VI, cl. 2.

18. Does the Fifth Amendment of the U.S. Constitution apply to non-citizens present in the United States?

Response: The Supreme Court has stated that "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The Supreme Court further has an extensive body of precedents discussing what due process requires in various contexts. If I am confirmed, I would faithfully apply the relevant precedents of the Supreme Court and the Seventh Circuit in addressing due process claims.

19. Is it constitutional for Congress to delegate to federal agencies the power to implement statutes through rulemaking?

Response: The Supreme Court has held that it is lawful for Congress to delegate power to federal agencies so long as Congress provides an "intelligible principle" to guide the action. *See, e.g.*, *J.W. Hampton, Jr., & Co. v. United States*, 276 U.S. 394 (1928).

20. Was *Brown v. Board of Education*, 347 U.S. 483 (1954), correctly decided?

Response: Yes.

21. Is *Griswold v. Connecticut*, 381 U.S. 479 (1965), binding precedent? Please describe the facts and holding of this case.

Response: In *Griswold*, the Supreme Court held that the Fourteenth Amendment protects the use of contraceptives. *Griswold* is binding precedent and I would faithfully follow it.

22. Is *Lawrence v. Texas*, 539 U.S. 558 (2003), binding precedent? Please describe the facts and holding of this case.

Response: In *Lawrence*, the Supreme Court held that laws that criminalized sexual intimacy between members of the same sex violate the Fourteenth Amendment. *Lawrence* is binding precedent and I would faithfully follow it.

23. Is *Obergefell v. Hodges*, 576 U.S. 644 (2015), binding precedent? Please describe the facts and holding of this case.

Response: In *Obergefell*, the Supreme Court held that the Fourteenth Amendment requires a state to license marriages between two people of the same sex on the same terms and conditions as marriages between two people of the opposite sex. *Obergefell* is binding precedent and I would faithfully follow it.

24. Do you believe that President Biden won the 2020 election? Note that this question is not asking who was certified as president in the 2020 election.

Response: President Biden was certified as the winner of the 2020 presidential election and served as the 46th President of the United States. To the extent this question seeks to elicit an answer that could be taken as opining on the broader political or policy debate regarding the conduct of the 2020 presidential election or on statements by any political figure, my response, consistent with the position of prior judicial nominees when asked questions regarding the 2020 election, is that it would be improper to offer any such comment as a judicial nominee. *See* Code of Conduct of U.S. Judges, Canons 3(A)(6), 5.

a. Did Biden win a majority of the electoral vote in the 2020 election?

Response: Please see my response to Question 24 above.

b. Do you believe that the results of the 2020 election, meaning the vote count, were accurate? If not, please provide why not and examples.

Response: Please see my response to Question 24 above.

25. **The 22nd Amendment says that "no person shall be elected to the office of the President more than twice."**[4]

a. Do you agree that President Trump was elected to the office of the President in the 2016 election?

Response: President Trump was certified as the winner of the 2016 presidential election and served as the 45th President of the United States.

b. Did Trump win a majority of the electoral vote in the 2016 election?

Response: Please see my response to Question 25.a. above.

c. Do you agree that President Trump was elected to the office of the President in the 2024 election?

Response: President Trump was certified as the winner of the 2024 presidential election and is serving as the 47th President of the United States.

d. Did Trump win a majority of the electoral vote in the 2024 election?

Response: Please see my response to Question 25.c. above.

[4] U.S. CONST. amend. XXII.

e. Do you agree that the 22nd Amendment, absent a constitutional amendment, prevents President Trump from running for a third presidential term?

Response: The 22nd Amendment prohibits any person from being "elected to the office of the President" for a third term. U.S. Const., amend. XXII.

26. Has any official from the White House or the Department of Justice, or anyone else involved in your nomination or confirmation process, instructed or suggested that you not opine on whether any past Supreme Court decisions were correctly decided?

Response: Yes, as part of guidance about the need to comply with the Code of Conduct and about how the vast majority of judicial nominees have handled those types of questions.

27. Have you spoken or corresponded with Elon Musk since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

28. Have you spoken or corresponded with any member of the Department of Government Efficiency (DOGE) since November 2024? If yes, identify the member(s) and provide the dates, mode, and content of those discussions and communications.

Response: No.

29. Have you spoken or corresponded with Stephen Miller since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

30. Have you spoken or corresponded with Chad Mizelle since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

31. Have you spoken or corresponded with Pam Bondi since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

32. Have you spoken or corresponded with Todd Blanche since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

33. Have you spoken or corresponded with Emil Bove since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: Yes. In approximately December of 2024 or January of 2025, I spoke with Emil Bove about the work of DOJ's Appellate Chiefs' Working Group and about the U.S. Attorney's Office for the Eastern District of Wisconsin. Consistent with general principles of confidentiality in public service and the discussion or provision of legal advice, I cannot disclose further details about those conversations.

34. Have you spoken or corresponded with Leonard Leo since November 2024? If yes, provide the dates, mode, and content of those discussions and communications.

Response: No.

35. Have you—personally or through any of your affiliated companies or organizations, agents, or employees—provided financial support or other resources to any members of the Proud Boys or of the Oath Keepers for their legal fees or for other purposes? If yes, state the amount of financial support provided, dates provided, and for what purposes.

Response: No.

36. Have you ever spoken or corresponded with any of the following individuals? If yes, provide the dates, mode, and content of those discussions and communications.

a. Enrique Tarrio
b. Stewart Rhodes
c. Kelly Meggs
d. Kenneth Harrelson
e. Thomas Caldwell
f. Jessica Watkins
g. Roberto Minuta
h. Edward Vallejo
i. David Moerschel
j. Joseph Hackett
k. Ethan Nordean
l. Joseph Biggs
m. Zachary Rehl
n. Dominic Pezzola
o. Jeremy Bertino
p. Julian Khater

Response: No.

37. Have you ever spoken or corresponded with any individuals convicted and later pardoned of offenses related to the January 6, 2021 attack on the U.S. Capitol? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: No.

38. Have you ever been demoted, terminated, or experienced any other adverse employment action?

Response: No.

a. If yes, please describe the events that led to the adverse employment action.

b. If no, please affirm that, since becoming a legal adult, you have left each place of employment voluntarily and not subject to the request or suggestion of any employer.

Response: Yes.

39. Federal judges must file annual financial disclosure reports and periodic transaction reports. If you are confirmed to the federal bench, do you commit to filing these disclosures and to doing so on time?

Response: Yes.

40. Article III Project (A3P) "defends constitutionalist judges and the rule of law." According to Mike Davis, Founder & President of A3P, "I started the Article III Project in 2019 after I helped Trump win the Gorsuch and Kavanaugh fights. We saw then how relentless—and evil—too many of today's Democrats have become. They're Marxists who hate America. They believe in censorship. They have politicized and weaponized our justice systems."[5]

a. Do you agree with the above statement?

Response: As a judicial nominee it would be inappropriate for me to comment on others' public statements or political debates, consistent with the principles of the Code of Judicial Conduct and the past practice of nominees.

b. Have you discussed any aspect of your nomination to the federal bench with any officials from or anyone directly associated with A3P, or did anyone do so on your behalf? If yes, identify the individual(s) and provide the dates, mode, and content of those discussions and communications.

Response: Not to my knowledge.

c. Are you currently in contact with anyone associated with A3P? If so, who?

Response: No.

d. Have you ever been in contact with anyone associated with A3P? If so, who?

Response: Not to my knowledge.

[5] https://www.article3project.org/about

41. Since you were first approached about the possibility of being nominated, did anyone associated with the Trump Administration or Senate Republicans provide you guidance or advice about which cases to list on your Senate Judiciary Questionnaire (SJQ)?

Response: No.

a. If so, who? What advice did they give?

b. Did anyone suggest that you omit or include any particular case or type of case in your SJQ?

42. During your selection process did you talk with any officials from or anyone directly associated with the Article III Project, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: Please see my responses to Question 40 above.

43. During your selection process did you talk with any officials from or anyone directly associated with the Federalist Society, or did anyone do so on your behalf? If so, what was the nature of those discussions?

Response: I have known a number of people affiliated with the Federalist Society personally and professionally over the years, and I have regularly kept in touch with those people. I consulted a significant number of my lawyer friends, colleagues, and mentors about the nomination process, and that includes individuals who have been members of or are affiliated with the Federalist Society.

44. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding your nomination.

Response: On May 7, 2025, I was contacted by the White House Counsel's Office and was asked if I would be interested in being considered as a candidate for nomination to the U.S. Court of Appeals for the Seventh Circuit. I answered in the affirmative and, upon request, I provided the White House Counsel's Office with basic biographical and career-related information. The White House Counsel's Office scheduled an interview for May 20, 2025. On that day, I interviewed with attorneys from the White House and the Department of Justice in Washington, DC. On August 7, 2025, the White House Counsel's Office contacted me to let me know that I was in consideration for the nomination. On August 13, 2025, I spoke to President Donald Trump about my nomination.

I have since been in contact with officials from the Justice Department's Office of Legal Policy regarding the nomination and the submission of required paperwork to the Federal Bureau of Investigation and the Senate. Those communications occurred over the course of August and September of 2025. In addition, in September of 2025, I communicated with the

White House Counsel's Office and the Justice Department's Office of Legal Policy in the course of preparing for the hearing before the Judiciary Committee.

45. Please explain, with particularity, the process whereby you answered these written questions.

Response: I prepared a draft response to these questions consulting my records, legal precedent, and responses addressing similar questions and issues submitted by other judicial nominees. After receiving feedback from persons at the Office of Legal Policy at the U.S. Department of Justice, I finalized my answers and authorized them to be submitted to the Senate Judiciary Committee.