Nomination of Emil J. Bove, III
Nominee to be U.S. Circuit Judge for the Third Circuit
Questions for the Record
Submitted July 2, 2025

QUESTIONS FROM CHAIRMAN CHARLES E. GRASSLEY

1. During your hearing, there was considerable discussion about allegations in a recent whistleblower complaint regarding compliance with court orders.

   Please use this opportunity to address the context behind those allegations, your position, and any additional information you believe is important to ensure a fair and accurate understanding of the events.

   Response: As a part of the senior leadership at the Department of Justice (DOJ) since January 20, 2025, I have regularly participated in sensitive internal deliberations concerning litigation strategy and legal advice relating to Executive Branch actions and policy. Generally speaking, the substance of those deliberations has often included encouraging DOJ litigators to advocate zealously on behalf of the Executive Branch subject to ethical and legal constraints. However, while I have participated in the provision of legal advice regarding the scope of court orders, I have not advised a DOJ attorney or other government official to violate a court order.

   The whistleblower complaint that was leaked in the media on the day before my confirmation hearing presents inaccurate allegations relating to sensitive internal deliberations at DOJ concerning three ongoing litigations: *JGG v. Trump*, *DVD v. DHS*, and *Abrego Garcia v. Noem*. Like all other questions at the confirmation hearing, I addressed questions regarding the whistleblower complaint based on my best recollection of the events at issue, subject to the constraints described below. While I do not recall using one or more of the words alleged by the whistleblower and used by certain Senators at the hearing (often in ambiguous compound questions), I did my best to answer the questions by the terms of the (often yes-or-no) format in which the questions were posed.

   In responding to those types of questions as a judicial nominee and a member of the New Jersey and New York bars, I was and am constrained in my ability to address the facts underlying the whistleblower complaint. First, because each of the three cases referenced in the whistleblower complaint is ongoing, it would be inappropriate for me to comment further on the details of these matters as a judicial nominee. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6). Second, I have an ethical obligation to preserve confidential communications and advice that I may have provided to clients, including at DOJ. *See, e.g.*, N.J. Rule 1.6; N.Y. Rule 1.6. Third, it would be inappropriate for me to disclose legal advice or other confidential information, arguably to the detriment of my clients, in a manner that could be viewed as an effort to advance my personal interest in confirmation. *See, e.g.*, N.J. Rule 1.8(b); N.Y. Rule 1.8(b). Fourth, efforts to obtain the Executive Branch's confidential information in the context

of a confirmation hearing present difficult separation-of-powers questions. Fifth, even the prospect that the Executive Branch's confidential information could be required to be disclosed in the context of a confirmation hearing would undermine the candor and free exchange of ideas that is necessary to the effective operation of the Executive Branch. *See Trump v. United States*, 603 U.S. 593, 612-13 (2024) (describing "the public interest in candid, objective, and even blunt or harsh opinions in Presidential decisionmaking, as well as the need to protect communications between high Government officials and those who advise and assist them in the performance of their manifold duties" (cleaned up)). Numerous nominees have taken the same approach, including Justice Kagan, who explained at her confirmation hearing: "I cannot reveal any kind of internal deliberations of the Department of Justice." Additional examples of similar positions taken by past nominees, who were confirmed, are set forth in Appendix A.

In light of the foregoing, as I explained at my confirmation hearing, I hewed to the line drawn by past nominees by identifying in general terms matters that I have worked on without getting into specifics about particular topics. Thus, while I confirmed that I participated in legal advice and deliberations relating to *JGG*, *DVD*, and *Abrego Garcia*, I must respectfully decline to disclose details regarding the advice and deliberations at issue to this Committee. However, the Deputy Attorney General has already stated publicly that the whistleblower's account of the March 14, 2025 meeting at DOJ—which took place prior to the initiation of *JGG*, much less the entry of any court orders—is not accurate. The whistleblower conceded on page 7 of the complaint that he "left the meeting understanding that DOJ would tell DHS to follow all court orders." The whistleblower also asserted at page 25 of the complaint that he "could not sign [a] brief" when he felt it contained "unsupported arguments." But the whistleblower felt no similar constraint with respect to DOJ's March 25, 2025 brief explaining the legal and factual reasons why "the Government has complied with the Court's orders" in *JGG*, which the whistleblower signed. ECF No. 58 at 13, *JGG v. Trump*, No. 25 Civ. 766 (D.D.C. Mar. 25, 2025).

While the whistleblower has suggested that DOJ took unsupported positions in *JGG*, *DVD*, and *Abrego Garcia*, DOJ received at least some emergency appellate relief from adverse trial court decisions in each case. The whistleblower claims that there was "no evidence" to support the allegation regarding Abrego Garcia's gang membership, but he also acknowledged the submission of the March 31, 2025 declaration of Robert Cerna, which discussed evidence of Abrego Garcia's alleged gang membership. *See* App. 59a, *Noem v. Abrego Garcia*, No. 24A949 (Apr. 7, 2025) (describing immigration judge finding that Abrego Garcia was a "danger to the community because the evidence show[ed] that he is a verified member of [MS-13]" (cleaned up)). Additionally, the whistleblower's complaint alleges that the whistleblower asserted that the government "could not" raise an argument "on appeal for the first time." Not so. Even when an argument is not raised below, a court of appeals can consider an issue raised for the first time on appeal, including by exercising its discretion to do so or if the responding party fails to argue that the argument was forfeited. *See, e.g.*, *El Puente v. United States Army Corps of Eng'rs*, 100 F.4th 236, 256 (D.C. Cir. 2024); ("[A] forfeiture can be forfeited by failing on appeal to argue an argument was forfeited." (cleaned up)); *Flynn v. Comm'r*, 269

F.3d 1064, 1069 (D.C. Cir. 2001) ("The rule is not absolute, and courts of appeals have discretion to address issues raised for the first time on appeal.").

2. Your leadership style was discussed during the hearing, and several references were made to how you manage high-profile matters.

   Please describe how you lead teams in complex or sensitive cases, how you foster professionalism and sound judgment in those roles, and any other insights you believe would help the Committee better understand your management approach.

   Response: Throughout my career, I have done my best to lead by example through hard work and a detail-oriented approach that requires ethical behavior and rewards merit.

   I honed my leadership style and management skills in environments that have often involved significant public scrutiny. In 2016, I was one of the federal prosecutors present at the FBI's command center in Manhattan as Ahmad Khan Rahimi detonated bombs in New Jersey and New York, and I was part of the trial team that helped vindicate the rights of Rahimi's New Jersey and New York victims in 2017. Those experiences helped me to assume more of a leadership role in 2018, when I was present in the same FBI command center to help protect Senator Booker and others from a plot involving improvised explosive devices mailed from Florida by Cesar Sayoc.

   These types of high-pressure environments are exacting, and the highest levels of professionalism and sound judgment are required in order to achieve optimal results for the parties involved, the victims, and the public. I faced a steep learning curve in my work as a lawyer, but I focused on these values while I learned on the job. I believe that is why I was ultimately trusted to help train junior prosecutors, to supervise one of the most important national security units in the country at the U.S. Attorney's Office for the Southern District of New York, and to promote an appropriate culture of ethics and professionalism at that Office through my work on the hiring committee, the discovery committee, and the capital case committee. I am proud that people I have mentored through these efforts have risen to leadership positions in government and the private sector.

3. During your hearing, several questions were raised about prosecutorial discretion related to the Justice Department's decision to dismiss the prosecution of Mayor Adams.

   Please provide any further perspective you may wish to offer about how you approached this matter and any broader context that would assist the Committee in understanding this issue.

   Response: The decision to seek dismissal of the charges against Mayor Adams was well within the scope of prosecutorial discretion derived from Article II's Vesting Clause and the Take Care Clause. *See, e.g.*, *Trump v. United States*, 603 U.S. 593, 620 (2024) ("Investigative and

prosecutorial decisionmaking is the special province of the Executive Branch, and the Constitution vests the entirety of the executive power in the President." (cleaned up)).

Mayor Adams's submissions to the district court and sworn statements at a February 19, 2025 hearing refute false public allegations by third parties regarding some sort of improper *quid pro quo* underlying DOJ's decision to file that motion. *See* ECF No. 145 at 20-21, 44-45, *United States v. Adams*, No. 24 Cr. 556 (S.D.N.Y. 2025). The fact that prosecutors in Manhattan convinced a grand jury to return charges against Mayor Adams did not require the senior leadership at DOJ to ignore the policy-level concerns described in DOJ's public filings regarding weaponization, *i.e.*, abuse, of the criminal justice process and impediments to Mayor Adams's ability to govern and campaign. *See Tyson v. Trigg*, 50 F.3d 436, 441 (7th Cir. 1995) ("Instances in which grand juries refuse to return indictments at the behest of the prosecutor are almost as rare as hen's teeth.").

As explained in DOJ's March 7, 2025 filing, the prosecution team's public protests relating to the dismissal motion were belied by their internal communications. In January 2025, prosecutors assigned to the case wrote about their intention to "distance" themselves from, and "create some space" with, the public conduct of the former U.S. Attorney in relation to the case. ECF No. 160 at 15-16, *United States v. Adams*, No. 24 Cr. 556 (S.D.N.Y. Mar. 7, 2025). The same prosecutor who later wrote that only a "coward" or a "fool" would dismiss the charges conceded in writing in January 2025 that the concern that the former U.S. Attorney "had a political motive in bringing the case . . . . [s]eem[ed] pretty plausible." *Id.* at 16. In February 2025, Daneille Sassoon wrote that she was "personally disappointed" in her predecessor's "self-serving actions." *Id.* at 17. Even the district court observed that, "[t]o be sure, it is fair to question the prudence of Williams's decision to publish such statements before Mayor Adams's case had been adjudicated." *United States v. Adams*, 2025 WL 978572, at 28 n.44 (S.D.N.Y. Apr. 2, 2025). DOJ leadership did, in fact, question the prudence of Williams's statements as a former U.S. Attorney about a pending case that was filed during his tenure. Regardless of whether those statements merited legal relief from the district court in response to a defense motion, it was well within DOJ's discretion to conclude that the statements warranted dismissal for policy reasons.

In a public filing, DOJ identified examples of previous instances in which prosecutors dismissed charges, including for policy reasons. ECF No. 160 at 9-10, *United States v. Adams*, No. 24 Cr. 556 (S.D.N.Y. Mar. 7, 2025). As another example, in 2022, DOJ moved to dismiss obstruction charges against Judge Shelley Joseph, which related to allegations that Judge Joseph helped an illegal alien flee her courthouse in 2018. *See* ECF No. 177-1, *United States v. Joseph*, No. 19 Cr. 10141 (D. Mass.). There was no suggestion in the motion that the charges against Judge Joseph were legally or factually deficient. As in the 2025 motion to dismiss the charges against Mayor Adams, DOJ sought to dismiss the charges against Judge Joseph without prejudice to renewal. *Id.* at 2. The court granted the motion, as filed, and dismissed the charges against Judge Joseph without prejudice. While the district court dismissed the charges against Mayor Adams with prejudice, the handling of the case against Judge Joseph

further illustrates that there was nothing improper about DOJ's handling of the dismissal motion in the case against Mayor Adams.

4. During your hearing, several of my Democratic colleagues raised questions about a February 14, 2025 meeting with attorneys from the Justice Department's Public Integrity Section. Unfortunately, you did not have an opportunity to fully respond on the record.

   For the benefit of the Committee, please provide your account of the context and purpose of this meeting and any other significant information you believe would expand upon the responses you were unable to complete at the hearing.

   Response: If I had been permitted to do so, I would have explained at the confirmation hearing that I addressed questions relating to the February 14, 2025 video meeting with attorneys from the Public Integrity Section, like all other questions, to the best of my recollection. I would have added that I began to speak with supervisors from the Public Integrity Section regarding the need to file a motion to dismiss the charges against Mayor Adams after Danielle Sassoon resigned on the afternoon of February 13, 2025. For one of those meetings, Public Integrity Section prosecutors reportedly returned from "a bar nearby" to speak with me, and "returned to the bar" after the meeting, "according to sources familiar with the matter." *See* https://www.cnn.com/2025/02/14/politics/eric-adams-justice-department-tick-tock.
   Following a series of publicly reported resignations at DOJ, including by attorneys in the supervisory chain of the Public Integrity Section, the larger video meeting with the Public Integrity Section was convened the following day.

   My comments during the February 14, 2025 video meeting were informed by the earlier meetings. It was never my intention to coerce, pressure, or induce any DOJ attorney—through adverse employment actions, threats, rewards, or otherwise—to sign the motion to dismiss the charges against Mayor Adams. To the contrary, I intended to convey during the February 14, 2025 video meeting that (1) I wished to move past the resignations and return to the Public Integrity Section's remaining work, (2) no one would be terminated if they declined to sign the motion, and (3) attorneys who comported themselves in a manner consistent with the zealous advocacy principles set forth in the Attorney General's February 5, 2025 memorandum would be considered for existing vacancies in the supervisory chain of the Public Integrity Section.

   In responding to the questions at the hearing, I noted that I hoped I would have an opportunity to explain my answers. The questions asked were often ambiguous, compound questions. Some also asked about the alleged use of specific words or phrases during the meeting. I did my best to answer the questions in the format they were posed and to the best of my recollection.

   For example, at my confirmation hearing, I was asked whether I had "state[d], suggest[ed], or impl[ied] that the section's career attorneys could be fired if none of them agreed to sign the brief dismissing Mayor Adams's indictment." According to public reporting from February

2025, I told the attorneys on the call that "it had been a long week and that [I] wanted all of them to be able to move on, according to two people who were on the call." *See* https://www.theguardian.com/us-news/2025/feb/19/donald-trump-eric-adams-justice-department. The report also indicated that I "told them [I] didn't want to get anyone in trouble, . . . so [I] didn't want to know who was opposed to signing the motion to dismiss." The report also stated that I wanted "two trial attorneys to attach their names because that was the standard practice and because it was easier to have a team than being alone." *Id.* This is all consistent with my general recollection of the meeting.

Another question at my confirmation hearing suggested that I "told attorneys that it is their job to implement the president's agenda and that they have to follow orders from the president and that there's no room for dissent in the chain of command." I do not recall using that specific phrase as an order to the Public Integrity Section during the meeting. In any event, if I had the opportunity at the hearing, I would have explained that I have frequently noted that attorneys have an obligation to provide advice about factual issues and the strength of legal arguments. Consistent with the Attorney General's February 5, 2025 memorandum, however, attorneys working at DOJ do not have "latitude to substitute personal political views or judgments" for the Administration's views, or to "refuse to advance good-faith arguments" on behalf of the Administration.

Following the February 14, 2025 video meeting, I worked collaboratively with the attorneys who ultimately signed the motion with me to arrive at a product that I understood to be acceptable to each of us. I was sensitive to the fact that those attorneys had not been involved in the lengthy meetings with other prosecutors and Mayor Adams's defense counsel that led DOJ to seek dismissal of the charges. Thus, the publicly filed motion sought to make clear to the district court that DOJ's senior leadership was responsible for the factual representations in the document. *E.g.*, ECF No. 122 ¶¶ 4-6, *United States v. Adams*, No. 24 Cr. 556 (S.D.N.Y. Feb. 14, 2025). While I believe the attorneys who signed that motion would have ably represented DOJ at the February 19, 2025 hearing had they been asked to do so, I decided on my own to appear at that hearing alone on behalf of DOJ because I believed that approach was more consistent with the leadership principles and professionalism that I have sought to promote during my tenure.

5. Some of my Democratic colleagues raised questions about personnel changes related to January 6th cases and a January 31, 2025 Justice Department memorandum.

Please provide the Committee with an overview of how you approached those decisions and any additional details you feel are important for this Committee to understand.

Response: My record makes clear that, as a former prosecutor with almost a decade of experience enforcing criminal laws, I condemn all forms of illegal activity. That is especially true with respect to acts of violence against law enforcement. At the same time, based on a variety of professional experiences, I find overreach and heavy-handed tactics by prosecutors

and law enforcement to be equally unacceptable. These concerns are not mutually exclusive, and publicly available materials suggest that both concerns were implicated by some of the events on January 6, 2021.

At my confirmation hearing, I was asked about two separate personnel decisions: (1) the terminations of probationary employees at the U.S. Attorney's Office for the District of Columbia who had worked on prosecutions relating to events on January 6, 2021; and (2) DOJ's request for a list of "all current and former FBI personnel assigned at any time to investigations and/or prosecutions relating to . . . events that occurred . . . on January 6, 2021," ECF No. 25-5, *Does 1-9 v. DOJ*, No. 25 Civ. 325 (D.D.C. Feb. 24, 2025). I am limited in the extent to which I can disclose confidential information relating to these decisions for the reasons I explained in response to question 1, including that these decisions and the underlying events on January 6, 2021 are subject to ongoing litigation in federal court and before the Merit Systems Protection Board. *See, e.g.*, *Blassingame, et al. v. Trump*, No. 21 Civ. 858 (D.D.C.); *Does 1-9 v. DOJ*, No. 25 Civ. 325 (D.D.C.); *FBI Agents Ass'n v. DOJ*, No. 25 Civ. 328 (D.D.C.). However, publicly available materials provide important context for each decision.

I issued a publicly available memorandum on January 31, 2025 relating to the terminations of the probationary employees at the U.S. Attorney's Office for the District of Columbia. The memorandum explained my understanding that "after President Trump was elected to his second term in Office, the Biden Administration's Justice Department converted these [term] employees to permanent status," which "resulted in the mass, purportedly permanent hiring of a group of AUSAs" that "improperly hindered the ability of Acting U.S. Attorney [Ed] Martin to staff his office in furtherance of his obligation to faithfully implement the agenda that the American people elected President Trump to execute." The memorandum further explained that these "subversive personnel actions" drove my thinking about the termination decisions of these probationary employees.

I issued a second memorandum on January 31, 2025, which is also publicly available, requesting the list of FBI employees who were assigned to investigations and prosecutions relating to events on January 6, 2021. The memorandum stated that the requested list would be used to "commence a review process to determine whether any additional personnel actions are necessary." Consistent with that explanation, the Acting Director of the FBI indicated in a February 4, 2025 email that he was "confident" that DOJ would "undertake a full and fair review of the data we provided" and that "the FBI does not consider anyone's identification on one of these lists as an indicator of misconduct." ECF No. 11-2, *Does 1-9 v. DOJ*, No. 25 Civ. 325 (D.D.C. Feb. 24, 2025). The following day, I sent a private email to the FBI that reiterated the point: "No FBI employee who simply followed orders and carried out their duties in an ethical manner with respect to January 6 investigations is at risk of termination or other penalties." ECF No. 11-3, *id.* In light of the ongoing litigation, DOJ "has not commenced this [review] process" or "accessed the unclassified list of names that prior acting FBI leadership claimed to have sent." ECF No. 45-1 at 4, *id.*

Appendix A. Statements By Prior Nominees Regarding Non-Disclosure Of Internal Government Deliberations

- Confirmation Hearing of Chief Justice John Roberts, available at https://www.govinfo.gov/content/pkg/GPO-CHRG-ROBERTS/pdf/GPO-CHRG-ROBERTS.pdf.
    - "[Y]ou have to have a candid exchange among lawyers in presenting cases to the Court in order to effectively represent your client whether your client is the Government of the United States or a private company . . . And yet if that was then revealed to your adversary or to the Court, it would obviously prejudice the presentation. . . . And if those things were going to be regularly revealed, people wouldn't make those types of analyses and judgments."
- Confirmation Hearing of Justice Elena Kagan, available at https://www.judiciary.senate.gov/imo/media/doc/CHRG-111shrg67622.pdf.
    - "I cannot reveal any kind of internal deliberations of the Department of Justice."
    - "I don't think that I can talk about internal deliberations of the Solicitor General's office whether with respect to the White House or otherwise."
- Confirmation of Justice Brett Kavanaugh, available at https://www.govinfo.gov/content/pkg/CHRG-109shrg27916/pdf/CHRG-109shrg27916.pdf.
    - "[W]ith respect to individual deliberations [at the White House] about prospective judicial nominees, that's something that it's not appropriate for me to disclose in this context . . . ."
- Response by Justice Ketanji Brown Jackson to question for the record by Senator Josh Hawley, available at https://www.judiciary.senate.gov/imo/media/doc/Judge%20Ketanji%20Brown%20Jackson%20Written%20Responses%20to%20Questions%20for%20the%20Record.pdf.
    - "Under the ethics rules that apply to lawyers, an attorney has a duty to represent her clients zealously, which includes refraining from contradicting her client's legal arguments and/or undermining her client's interests by publicly declaring the lawyer's own personal disagreement with the legal position or alleged behavior of her client. These standards apply even after termination of the representation."

- Response by Judge Srikanth Srinivasan to question for the record by Chairman Chuck Grassley, available at https://www.judiciary.senate.gov/imo/media/doc/041013QFRs-Srinivasan.pdf.
    - "With respect to whether it would be appropriate for me to provide internal Solicitor General memoranda in connection with my nomination, I agree with the concerns expressed by all then-living Solicitors General in a letter to the Committee dated June 24, 2002. That letter expressed concerns about any request to disclose internal Solicitor General memoranda because the Office's 'decisionmaking process required the unbridled, open exchange of ideas—an exchange that simply cannot take place if attorneys have reason to fear that their private recommendations are not private at all, but vulnerable to public disclosure. . . . High-level decisionmaking requires candor, and candor in turn requires confidentiality.'"
- Response by Judge Greg Katsas to question for the record by Ranking Member Dick Durbin, available at https://www.judiciary.senate.gov/imo/media/doc/Katsas%20Responses%20to%20QFRs.pdf.
    - "In preparing for my own confirmation hearing, I determined that I could answer the questions posed to me by Senator Feinstein about whether or not I had worked on or provided legal advice on particular matters since joining the White House Counsel's Office. I also determined that I could not answer further questions about the substance of my advice or any other internal deliberations on those matters. This was based on an assessment of the specific circumstances presented by my own nomination, as well as the answers provided under similar circumstances while the Committee was considering the judicial nominations of Justice Kagan and Judge Kavanaugh."
- Response by Judge Steven Menashi to question for the record by Senator Dianne Feinstein, available at https://www.judiciary.senate.gov/imo/media/doc/Menashi%20Responses%20to%20QFRs.pdf.
    - "As a general matter, the legal advice I provide in the executive branch is subject to executive branch confidentiality interests. A number of legal doctrines protect the confidentiality of these communications. These include the presidential communications privilege, the deliberative process privilege, the executive privilege, and the attorney-client privilege. An attorney may not waive these privileges unilaterally."

- Response by Judge Bradley Garcia to question for the record by Senator Ted Cruz, available at https://www.judiciary.senate.gov/imo/media/doc/QFR%20Responses%20-%20Garcia%20-%202022-07-27.pdf.
    - "Consistent with my duties of confidentiality as an attorney, and the approach taken by past nominees who were Executive Branch lawyers, I am not able to comment on the content of my advice on that or any other matter."
- Response by Judge David Barron to question for the record by Chairman Chuck Grassley, available at https://www.judiciary.senate.gov/imo/media/doc/112013QFRs-Barron.pdf.
    - "Due to classification requirements and applicable privileges, I am not at liberty to discuss confidential advice I may have given while serving in the executive branch, including any advice I may have given regarding the merits of disclosure."
- Response by Judge Jeannette Vargas to question for the record by Senator Mike Lee, available at https://www.judiciary.senate.gov/imo/media/doc/2024-04-17_-_qfr_responses_-_vargas.pdf.
    - "The canons of professional responsibility prohibit me from disclosing confidential information received in the course of that representation or from discussing the merits of that pending matter beyond what is set forth in the Government's public filings."
- Response by Elizabeth Prelogar to question for the record by Senator Josh Hawley, available at https://www.judiciary.senate.gov/imo/media/doc/Prelogar%20Responses%20to%20Questions%20for%20the%20Record.pdf.
    - "As Noel Francisco observed in response to questions from this Committee when he was the nominee for Solicitor General, it would be inappropriate to comment on internal Executive Branch deliberations as to the handling of any specific case."
- Response by Helaine Greenfeld to question for the record by Chairman Chuck Grassley, available at https://www.judiciary.senate.gov/imo/media/doc/Greenfeld%20QFR%20Responses.pdf.
    - "With respect to the disclosure of additional information related to your inquiry, the Department has also stated that 'it has long been the Department's policy to protect the confidentiality interests in internal pre-decisional deliberations including non-public information related to such matters, including seeking ethics advice. To disclose any ethics communications would have a chilling effect on Department employees' willingness to speak openly and candidly with ethics officials on ethics matters.'"

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Emil J. Bove III
Nominee to be U.S. Circuit Judge for the Third Circuit
July 2, 2025

1. While serving in the Trump Justice Department, you directed then-Interim U.S. Attorney for the District of Columbia Ed Martin to fire dozens of line prosecutors who had worked on January 6 cases.

You 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.

a. Did you order the removal of anyone who investigated or prosecuted rioters who assaulted law enforcement officers on January 6?

Response: This question references two separate personnel decisions: (1) the terminations of probationary employees at the U.S. Attorney's Office for the District of Columbia who had worked on prosecutions relating to events on January 6, 2021; and (2) DOJ's request for a list of "all current and former FBI personnel assigned at any time to investigations and/or prosecutions relating to . . . events that occurred . . . on January 6, 2021," ECF No. 25-5, *Does 1-9 v. DOJ*, No. 25 Civ. 325 (D.D.C. Feb. 24, 2025). Because these decisions and the underlying events on January 6, 2021 are subject to ongoing litigation in federal court and before the Merit Systems Protection Board, Canon 3(A)(6) limits the extent to which I can address these matters in these proceedings. *See, e.g.*, *Blassingame, et al. v. Trump*, No. 21 Civ. 858 (D.D.C.); *Does 1-9 v. DOJ*, No. 25 Civ. 325 (D.D.C.); *FBI Agents Ass'n v. DOJ*, No. 25 Civ. 328 (D.D.C.). However, publicly available materials provide important context for each decision.

I issued a publicly available memorandum on January 31, 2025 relating to the terminations of the probationary employees at the U.S. Attorney's Office for the District of Columbia. The memorandum explained my understanding that "after President Trump was elected to his second term in Office, the Biden Administration's Justice Department converted these [term] employees to permanent status," which "resulted in the mass, purportedly permanent hiring of a group of AUSAs" that "improperly hindered the ability of Acting U.S. Attorney [Ed] Martin to staff his office in furtherance of his obligation to faithfully implement the agenda that the American people elected President Trump to execute." The memorandum further explained that these "subversive personnel actions" drove my thinking about the termination decisions of these probationary employees.

I issued a second memorandum on January 31, 2025, which is also publicly available, requesting the list of FBI employees who were assigned to investigations and prosecutions relating to events on January 6, 2021. The memorandum stated that the requested list would be used to "commence a review process to determinate whether any additional personnel actions are necessary." Consistent with that explanation, the Acting Director of the FBI indicated in a February 4,2025 email that he was "confident" that DOJ would "undertake a full and fair review of the data we provided" and that "the FBI does not consider anyone's identification on one of these lists as an indicator of misconduct." ECF No. 11-2, *Does 1-9 v. DOJ*, No. 25 Civ. 325 (D.D.C. Feb. 24, 2025). The following day, I sent a private email to the FBI that reiterated the point: "No FBI employee who simply followed orders and carried out their duties in an ethical manner with respect to January 6 investigations is at risk of termination or other penalties." ECF No. 11-3, *id.* In light of the ongoing litigation, DOJ "has not commenced this [review] process" or "accessed the unclassified list of names that prior acting FBI leadership claimed to have sent." ECF No. 45-1 at 4, *id.*

As an Assistant U.S. Attorney in the Southern District of New York, you reportedly contributed to the prosecutions of January 6 offenders.

b. Do you believe that any prosecutors or FBI investigators with whom you worked on these cases "weaponized" the justice system against January 6 offenders?

Response: I did not personally observe abuse of the criminal justice system during my supervision of particular matters relating to events on January 6, 2021, but I did not have access to all relevant information at that time.

2. On June 24, 2025, Mr. Erez Reuveni, former Acting Deputy Director for the Department of Justice (DOJ) Civil Division's Office of Immigration Litigation (OIL), submitted a protected whistleblower disclosure to the Senate Judiciary Committee describing multiple instances when various senior officials at DOJ advocated for ignoring court orders, delayed compliance with court orders, presented baseless legal arguments, misrepresented facts or made false statements in court, and directed the whistleblower to misrepresent facts in court.

One of these instances identified is a March 14, 2025 meeting Mr. Reuveni joined concerning the then-impending presidential proclamation invoking the Alien Enemies Act (AEA) for the first time since World War II, and the removals that would occur pursuant to that proclamation. According to the protected disclosure, you participated in this meeting, along with Counselor to the Deputy Attorney General James McHenry, Associate Deputy Attorney General Paul Perkins, Deputy Assistant Attorney General of OIL Drew Ensign, Acting Director for OIL August Flentje, and other OIL attorneys. Deputy Attorney General Todd Blanche has separately tweeted that he "was at the meeting."

a. Did Mr. Blanche attend this meeting?

Response: Mr. Blanche has stated publicly that he was at the meeting.

b. If yes, was Mr. Blanche present for the entire meeting?

Response: I must respectfully decline to provide further details regarding the deliberations at the March 14, 2025 meeting. As I explained at my confirmation hearing, I am hewing to the line drawn by past nominees by identifying in general terms matters that I have worked on without getting into non-public specifics about particular topics.

First, because Mr. Reuveni's whistleblower compliant is part of the litigation in *JGG v. Trump*, it would be inappropriate for me to comment further on the details of these matters as a judicial nominee. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6). Second, I have an ethical obligation to preserve confidential communications and advice that I may have provided to clients, including at DOJ. *See, e.g.*, N.J. Rule 1.6; N.Y. Rule 1.6. Third, it would be inappropriate for me to disclose legal advice or other confidential information, arguably to the detriment of my clients, in a manner that could be viewed as an effort to advance my personal interest in confirmation. *See, e.g.*, N.J. Rule 1.8(b); N.Y. Rule 1.8(b). Fourth, efforts to obtain the Executive Branch's confidential information in the context of a confirmation hearing present difficult separation-of-powers questions. Fifth, even the prospect that the Executive Branch's confidential information could be required to be disclosed in the context of a confirmation hearing would undermine the candor and free exchange of ideas that is necessary to the effective operation of the Executive Branch. *See Trump v. United States*, 603 U.S. 593, 612-13 (2024) (describing "the public interest in candid, objective, and even blunt or harsh opinions in Presidential decisionmaking, as well as the need to protect communications between high Government officials and those who advise and assist them in the performance of their manifold duties" (cleaned up)). Numerous nominees have taken the same approach, including Justice Kagan, who explained at her confirmation hearing: "I cannot reveal any kind of internal deliberations of the Department of Justice." Additional examples of similar positions taken by past nominees, who were confirmed, are set forth in Appendix A to my responses to Chairman Grassley's questions for the record.

c. Do you recall anyone else who attended this meeting?

Response: Please see my response to question 2.b.

At this meeting, the whistleblower disclosure describes a discussion of the forthcoming AEA proclamation. During that meeting, Mr. Reuveni claims that you indicated one or more planes containing individuals subject to the AEA would be taking off the next day, March 15, and the following day, March 16.

d. Did you discuss the forthcoming AEA proclamation at this meeting? If no, please explain the topic of discussion of this meeting.

Response: Please see my response to question 2.b.

e. If yes, did you discuss potential flights removing individuals that would take place on March 15 and March 16?

Response: Please see my response to question 2.b.

f. If yes, did you stress to the participants that these planes needed to take off "no matter what" or another phrase indicating urgency?

Response: Please see my response to question 2.b.

The whistleblower disclosure also describes a discussion of what the government's response should be if a court were to enjoin the removal of individuals under the AEA. At your confirmation hearing, you were asked multiple times whether you stated, suggested, or implied that the government's response should be "f--- you" and ignore the court order. In response to Senator Schiff's questioning along this line, you testified: "I did not suggest that there would be any need to consider ignoring court orders. At the point of that meeting, there were no court orders to discuss."

g. Is it your testimony that during this March 14 meeting there was no discussion as to the government's potential strategy if a court enjoined these removals?

Response: Respectfully, this question mischaracterizes my testimony at the confirmation hearing. The testimony at issue occurred during a point in the hearing in which I was repeatedly cut off and not permitted to complete my answers. If I had been permitted to complete my answers, I would have explained that I was concerned that Senator Schiff was under the misimpression that Judge Boasberg had granted injunctive relief in *JGG v. Trump* by the time of the meeting on March 14, 2025. The case had not been initiated by the time of that meeting, and that is the point I was trying to make during the exchange that included the above-quoted excerpt from my hearing testimony.

To the extent this question seeks details regarding internal deliberations at DOJ, please see my response to question 2.b.

h. If the government's strategy about a potential injunction against these removals was discussed, did you provide an assessment of how the government should respond to such a court order?

Response: Please see my response to question 2.b.

i. Have you ever stated to colleagues from the White House, the Justice Department, or any other agency that the Justice Department could or should tell federal courts "f--- you?"

Response: At my confirmation hearing, I testified that I did not recall using the language attributed to me by the whistleblower during the meeting on March 14, 2015. To the extent this question seeks information beyond that testimony, please see my response to question 2.b.

j. Have you ever stated to colleagues from the White House, the Justice Department, or any other agency that the Justice Department could or should ignore federal court orders, or that it could or should advise other Departments, including the Department of Homeland Security, to ignore court orders?

Response: While I have participated in the provision of legal advice regarding the scope of court orders, I have not advised a DOJ attorney or other government official to violate a court order. To the extent this question seeks confidential information about internal deliberations in the Executive Branch, please see my response to question 2.b.

3. On March 16, 2025, Yaakov Roth sent an email to August Flentje stating: "I have been told by ODAG that the principal associate deputy attorney general advised DHS last night that the deplaning of the flights that had departed US airspace prior to the court's minute order was permissible under the law and the court's order." However, Mr. Reuveni had made clear in a series of emails to officials at DOJ and DHS involved in these removal flights on March 15 from 6:14 p.m. until an email sharing the minute order at 7:27 p.m. that Judge Boasberg was presently certifying a class of individuals subject to the AEA proclamation and issuing a class-wide Temporary Restraining Order against their removal.

a. At what time did you advise DHS officials on the parameters of Judge Boasberg's order?

Response: Please see my response to question 2.b.

b. Did you advise DHS officials that they could take contrary action to Judge Boasberg's oral order until the minute order was published?

Response: Please see my response to question 2.b.

c. Did you advise any DHS or DOJ official that the deplaning of flights that had departed U.S. airspace was permissible? If yes, to whom did you provide this guidance?

Response: Please see my response to question 2.b.

d. Did you advise or discuss the permissibility of deplaning flights that had departed U.S. airspace until Judge Boasberg's minute order was published with the White House? If yes, with whom?

Response: Please see my response to question 2.b.

This March 15 hearing before Judge Boasberg was originally set for 4:00 p.m., but was later changed to 5:00 p.m.

e. Did DOJ request this hearing be pushed back by one hour from 4:00 to 5:00 p.m.?

Response: Please see my response to question 2.b.

f. If so, who made this request to the court?

Response: Please see my response to question 2.b.

During this 5:00 p.m. hearing on March 15, Judge Boasberg asked Deputy Assistant Attorney General of OIL Drew Ensign whether any deportations or removals were imminent "in the next 24 or 48 hours." Mr. Ensign responded that he did not know the answer, and Judge Boasberg adjourned the hearing at 5:22 p.m. until 6:00 p.m. to allow Mr. Ensign time to get an answer to this question. When the hearing resumed at 6:00 p.m., Mr. Ensign did not provide any information about the flights that were currently in air.

g. During the brief recess in this hearing, did you discuss the two flights already in air or the third flight preparing to depart with Mr. Ensign or anyone with whom he was in communication requesting information on these flights?

Response: Please see my response to question 2.b.

h. Prior to this hearing, did you discuss any of these three flights with Mr. Ensign or anyone with whom he later communicated during the recess requesting information on these flights?

Response: Please see my response to question 2.b.

4. The whistleblower complaint also states that on March 17, the district court issued an order demanding that the government provide updates regarding when flights to El Salvador were taking place. Mr. Reuveni alleges that he was told that DOJ leadership was

"reporting 'down the chain' that the government was not going to answer the court's questions about anything that happened before 7:26pm on March 15, and so not to provide information about when the flights took off."

a. Did you tell subordinates not to provide information to the courts about the March 15 flights, as required by the district court's minute order?

Response: Please see my response to question 2.b.

On March 31, the Administration announced an additional flight of 17 individuals to El Salvador. Mr. Reuveni alleges that he learned from conversations with the Defense Department and State Department that this flight had departed the United States on March 29, which was *after* the district court issued its injunction in *D.V.D. v. DHS*, the case involving allegations that the agency removed individuals with final orders of removal to third countries without first ascertaining if they would be safe from torture in those countries.

Mr. Reuveni states that he then received a phone call the next day from Acting Assistant Attorney General Yaakov Roth who relayed that you were "very unhappy that Mr. Reuveni had contacted counsel at various agencies to ascertain whether DOJ had violated a court order." Mr. Roth then allegedly told Mr. Reuveni to stop emailing agency counsel about this issue and instead communicate by phone.

Staff at the OIL along with attorneys in other agencies allegedly raised concerns that DOJ was violating a court order.

b. Did you or other members of DOJ leadership sign off on the March 29 flight, notwithstanding the district court's prior injunction in *D.V.D.*?

Response: As I explained at my confirmation hearing, I have hewed to the line drawn by past nominees by identifying in general terms matters that I have worked on without getting into specifics about particular topics. Similar to *JGG v. Trump*, I confirm that I participated in legal advice and deliberations relating to *DVD v. DHS*. To the extent this question seeks confidential information about internal deliberations in the Executive Branch, please see my response to question 2.b.

c. Did you express to Mr. Roth or others that you were unhappy that Mr. Reuveni was asking questions about his concern that DOJ had violated a federal court order?

Response: Please see my response to question 2.b.

5. On April 4, 2025, Mr. Reuveni appeared before Judge Xinis in the District of Maryland on behalf of the government for a hearing on the renewed motion for a Temporary Restraining Order regarding the removal of Kilmar Abrego Garcia. During that hearing,

in response to questions from Judge Xinis, Mr. Reuveni informed the court of Immigration and Customs Enforcement's concession that Mr. Abrego Garcia was removed in error. After this hearing, Mr. Reuveni then refused to sign an appellate brief that introduced a new argument that Mr. Abrego Garcia was a member of a terrorist organization because the government had not made this argument in the briefing below and would be presenting it to the court for the first time on appeal.

On April 5, 2025, Mr. Reuveni received a notification from Mr. Blanche of his placement on administrative leave status effective immediately. That notice cited his "failure to follow a directive from [his] superiors; failure to zealously advocate on behalf of the United States; and engaging in conduct prejudicial to [his] client."

a. What was your role in placing Mr. Reuveni on administrative leave?

Response: I participated in the decision to place Mr. Reuveni on administrative leave.

b. Did you discuss Mr. Reuveni's administrative leave or the issues cited in his notice with Mr. Blanche?

Response: Please see my response to question 2.b.

c. Did you discuss Mr. Reuveni's administrative leave or the issues cited in his notice with Attorney General Bondi?

Response: Please see my response to question 2.b.

d. Did you discuss Mr. Reuveni's administrative leave or the issues cited in his notice with the White House?

Response: Please see my response to question 2.b.

e. Did you discuss Mr. Reuveni's administrative leave or the issues cited in his notice with Mr. Ensign?

Response: Please see my response to question 2.b.

f. On or around April 1, did you express concerns to Mr. Roth or others about Mr. Reuveni's written communications with DOD, DHS, or DOJ officials regarding the Government's compliance with or violation of the injunction in *D.V.D. v DHS*? If yes, what were your concerns? Is it your position that DOJ attorneys should not communicate with agency clients in writing?

Response: Please see my response to question 2.b.

On April 11, 2025, Mr. Reuveni received a notification from Mr. Blanche of his removal from federal service, or termination, effective immediately. The notification does not cite any infractions, including the purported infractions cited in his administrative leave notification.

g. What was your role in Mr. Reuveni's termination?

Response: I participated in the decision to terminate Mr. Reuveni.

h. Did you discuss Mr. Reuveni's termination with Mr. Blanche?

Response: Please see my response to question 2.b.

i. Did you discuss Mr. Reuveni's termination with Attorney General Bondi?

Response: Please see my response to question 2.b.

j. Did you discuss Mr. Reuveni's termination with the White House? If so, with whom?

Response: Please see my response to question 2.b.

k. Did you discuss Mr. Reuveni's termination with Mr. Ensign?

Response: Please see my response to question 2.b.

6. In addition to the instances discussed above, Mr. Reuveni made several more claims concerning your conduct in the whistleblower disclosure.

To the extent that you contest any other claims about your conduct made in the whistleblower disclosure, please identify each contested claim and provide your refutation to that claim.

Response: I do not concede any of Mr. Reuveni's claims. The Deputy Attorney General has already stated publicly that Mr. Reuveni's account of the March 14, 2025 meeting at DOJ—which took place prior to the initiation of *JGG*, much less the entry of any court orders—is not accurate. Mr. Reuveni conceded on page 7 of the complaint that he "left the meeting understanding that DOJ would tell DHS to follow all court orders." Mr. Reuveni also asserted at page 25 of the complaint that he "could not sign [a] brief" when he felt it contained "unsupported arguments." But Mr. Reuveni felt no similar constraint with respect to DOJ's March 25, 2025 brief explaining the legal and factual reasons why "the Government has complied with the Court's orders" in *JGG*, which he signed. ECF No. 58 at 13, *JGG v. Trump*, No. 25 Civ. 766 (D.D.C. Mar. 25, 2025).

While the whistleblower has suggested that DOJ took unsupported positions in *JGG*, *DVD*, and *Abrego Garcia*, DOJ received at least some emergency appellate relief from adverse trial court decisions in each case. The whistleblower claims that there was "no evidence" to support the allegation regarding Abrego Garcia's gang membership, but he also acknowledged the submission of the March 31, 2025 declaration of Robert Cerna, which discussed evidence of Abrego Garcia's alleged gang membership. *See* App. 59a, *Noem v. Abrego Garcia*, No. 24A949 (Apr. 7, 2025) (describing immigration judge finding that Abrego Garcia was a "danger to the community because the evidence show[ed] that he is a verified member of [MS-13]" (cleaned up)). Additionally, the whistleblower's complaint alleges that the whistleblower asserted that the government "could not" raise an argument "on appeal for the first time." Not so. Even when an argument is not raised below, a court of appeals can consider an issue raised for the first time on appeal, including by exercising its discretion to do so or if the responding party fails to argue that the argument was forfeited. *See, e.g.*, *El Puente v. United States Army Corps of Eng'rs*, 100 F.4th 236, 256 (D.C. Cir. 2024); ("[A] forfeiture can be forfeited by failing on appeal to argue an argument was forfeited." (cleaned up)); *Flynn v. Comm'r*, 269 F.3d 1064, 1069 (D.C. Cir. 2001) ("The rule is not absolute, and courts of appeals have discretion to address issues raised for the first time on appeal.").

Beyond those publicly available details calling into question Mr. Reuveni's claims, I must respectfully decline to address non-public details regarding these issues for the reasons set forth in my response to question 2.b.

7. You are before this Committee seeking a lifetime appointment to the Third Circuit. Should you be confirmed, you will preside over advocates zealously representing their clients across thousands of matters during your tenure. Please respond to the following questions with yes or no answers.

a. As a judge, will you accept as permissible misrepresented facts or false statements as a form of "zealous advocacy"?

Response: If I am confirmed, I would not accept misrepresentations or false statements from parties to a litigation.

b. As a judge, will you accept as permissible non-compliance or delayed compliance with your orders as a form of "zealous advocacy"?

Response: If I am confirmed, in the absence of a stay, some other form of relief, or a valid legal position that justifies a party's delayed compliance or non-compliance, no I would not accept as permissible non-compliance or delayed compliance with my orders.

c. As a judge, will you entertain as permissible frivolous or otherwise baseless legal arguments as a form of "zealous advocacy"?

Response: Generally speaking, frivolous and baseless arguments are not valid forms of zealous advocacy.

d. As a judge, will you permit advocates to violate their independent, professional responsibilities as members of the bar regarding candor to the tribunal as a form of "zealous advocacy"?

Response: No.

8. Did President Trump lose 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 positions 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.

9. Where were you on January 6, 2021?

Response: I do not recall where I was on January 6, 2021.

10. Do you denounce the January 6 insurrection?

Response: The characterization of the events on January 6, 2021 is a matter of significant political debate and subject to ongoing litigation. *See, e.g.*, *Blassingame, et al. v. Trump*, No. 21 Civ. 858 (D.D.C.). Pardon recipients have also litigated the scope of the pardons in question, which is an issue that I could be required to address as a judge if I am fortunate enough to be confirmed. Thus, as a judicial nominee, it would be inappropriate to address this question.

11. 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: "To the executive alone is intrusted the power of pardon." *Trump v. United States*, 603 U.S. 593, 608 (2024) (cleaned up). "The President's authority to pardon, in other words, is conclusive and preclusive." *Id.* (cleaned up). Accordingly, as I explained at my confirmation hearing, it would not be appropriate for me, as a nominee, to comment on President Trump's use of the pardon authority.

12. 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. If the Supreme Court issues an order upon the conclusion of appellate review, that order is to 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.

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

Response: With respect to potential exceptions to the general rule described in response to question 12.a, 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); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 Iowa L. Rev. 1267, 1326 (1996) (constitutional error "so clear that it is not open to rational question"); *see also* 17 Corpus Juris Secundum Contempt §§ 56-65 (discussing contempt defenses); Josh Blackman, *The Department of Justice's 'Longstanding' General Practice of Intracircuit Nonacquiescence*, The Volokh Conspiracy (May 16, 2025). Some litigants and jurists have drawn a distinction between a court's binding "judgment[]" and its "statements in opinions." *Camreta v. Greene*, 563 U.S. 692, 704 (2011).

Certain interlocutory orders might be immediately appealable only via the avenue of a contempt finding, in which case defying the order would arguably be the exclusive path to appellate review. *See, e.g.*, *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) ("Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions."); *In re Grand Jury*, 705 F.3d 133, 142 (3d Cir. 2012). In *Maness v. Meyers*, 419 U.S. 449, 465-66 (1975), the Supreme Court addressed "whether in a civil proceeding a lawyer may be held in contempt for counseling a witness in good faith to refuse to produce court-ordered materials on the ground that the materials may tend to

incriminate the witness in another proceeding." *Id.* at 465. Based on the record before it, the Court held that the lawyer could "not be penalized even though his advice caused the witness to disobey the court's order." The Court explained that "[t]he privilege against compelled self-incrimination would be drained of its meaning if counsel, being lawfully present, as here, could be penalized for advising his client in good faith to assert it." *Id.* at 465-66 (footnote omitted).

Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to provide an answer that categorically predetermines the validity of potential legal arguments for or against adhering to court orders. If any such issues came before me as a judge, I would resolve those issues through careful consideration and application of the parties' arguments and the governing law and precedents.

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

Response: Generally speaking, under Article III of the Constitution, the judiciary is responsible for making such determinations in the context of cases or controversies presented by litigants. Like any other litigants, members of Congress or the Executive Branch may offer guidance and take positions regarding whether a particular federal court order is lawful, but it is typically up to the judiciary to resolve any litigation disputes regarding that type of issue.

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

a. Are non-party injunctions constitutional?

Response: This question is the subject of ongoing litigation, including litigation regarding the application of *Trump v. CASA, Inc.*, 2025 WL 1773631 (June 27, 2025), and could come before me as a judge if I am confirmed. For both of these reasons, it would not be appropriate for me, as a nominee, to express a view on this question.

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

Response: Please see my response to question 13.a.

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 13.a.

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: To the best of my recollection, no.

14. 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.

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

Response: The 22nd Amendment provides that "[n]o person shall be elected to the office of the President more than twice . . . ." As a nominee to the Third Circuit, it would not be appropriate for me to address how this Amendment would apply in an abstract hypothetical scenario. To the extent this question seeks to elicit an answer that could be taken as opining on the broader political or policy debate regarding term limits, or on statements by any political figure, my response, consistent with the positions of prior judicial nominees, is that it would be improper to offer any such comment as a judicial nominee.

16. On Memorial Day, 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?"

Response: As a nominee, it would be improper for me to comment on political issues or on statements by any political figure.

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

Response: Please see my response to question 16.a.

17. In addition to the President's own attacks on judges, his adviser Stephen Miller recently took to social media to call a federal trade court's ruling against President Trump's tariffs

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

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: Please see my response to question 16.a.

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

Response: Please see my response to question 16.a.

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: Irrespective of my personal comfort, I have grown accustomed to that type of issue in connection with my work as a defense lawyer, a senior official at DOJ, and a judicial nominee. Indeed, certain members of this Committee and their staffs have made such posts about me in connection with this process. While I condemn violence and threats against anyone, including members of the judiciary, it would be my solemn obligation not to let such behavior impact my impartiality and decision-making as a judge.

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

Response: It is never appropriate for a lower court to depart from directly controlling Supreme Court precedent.

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

Response: If I am confirmed, I would follow the practices and precedents of the Third Circuit with respect to overturning circuit precedent. In the Third Circuit, the court "must usually rule en banc to overturn a precedential decision." *United States v. McLean*, 702 F. App'x 81, 87 n.13 (3d Cir. 2017); *see also* 3rd Cir. I.O.P. 9.1-9.2. Third Circuit panels may also "reevaluate the holding of a prior panel which conflicts with intervening Supreme Court precedent." *Id.* (cleaned up).

20. When, in your opinion, would it be appropriate for the Supreme Court to overrule its own 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: 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, 268-90 (2022).

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

Response: Under the Code of Conduct for United States Judges, I have a duty as a judicial nominee to refrain from commenting on the merits of the Supreme Court's binding precedents, because doing so could create the misimpression that I would have difficulty applying binding law to adjudicate parties' cases. Thus, as Justice Kagan explained at her confirmation hearing and many other judicial nominees have reiterated, it is generally not appropriate for a nominee to "grade" or give a "thumbs-up or thumbs-down" to particular Supreme Court precedents. If I am fortunate enough to be confirmed, I would faithfully apply all of the Supreme Court's precedents.

a. *Brown v. Board of Education*

Response: *Brown* 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, consistent with the Code of Conduct, I confirm my view that *Brown* was rightly decided.

b. *Plyler v. Doe*

Plyler is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to question 21.

c. *Loving v. Virginia*

Response: In *Loving*, 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 *Browns*'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. Therefore, just as other nominees

for judicial office have done, consistent with the Code of Conduct, I confirm my view that *Loving* was rightly decided.

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

Response: *Griswold* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to question 21.

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

Response: *Trump* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to question 21.

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

Response: *Dobbs* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to question 21.

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

Response: *Bruen* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to question 21.

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

Response: *Obergefell* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to question 21.

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

Response: *Bostock* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to question 21.

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

Response: *Masterpiece Cakeshop* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to question 21.

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

Response: *303 Creative* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to question 21.

l. ***United States v. Rahimi***

Response: *Rahimi* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to question 21.

m. ***Loper Bright Enterprises v. Raimondo***

Response: *Loper Bright* is a binding precedent of the Supreme Court, and if confirmed, I would faithfully apply it. Otherwise, please see my answer to question 21.

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

Response: As a lower court judge, my principal task would be to faithfully apply all applicable precedent of the Supreme Court and the Third Circuit, without regard to whether that binding precedent did or did not comport with the original public meaning of the constitutional provision at issue. In interpreting the Constitution, I would employ methodologies consistent with the methods of interpretation that the Supreme Court and the Third Circuit employ when they undertake to interpret constitutional provisions. Both courts have interpreted various constitutional provisions by attempting to discern 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, 604 (2008) (referring to "the examination of a variety of legal and other sources to determine the public understanding of a legal text in the period after its enactment or ratification"); *Lara v. Comm'r Pennsylvania State Police*, 125 F.4th 428, 441 (3d Cir. 2025) (describing historical sources that "shed important light on the meaning of the [Second] Amendment as it was originally understood").

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

Response: Please see my response to question 22.

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

Response: In *Obergefell v. Hodges*, 576 U.S. 644 (2015), 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. If confirmed, I would faithfully follow *Obergefell* and all other precedents of the Supreme Court.

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

Response: In *Loving v. Virginia*, 388 U.S. 1 (1967), the Supreme Court invalidated a state law prohibiting interracial couples from marrying. If confirmed, I would faithfully follow *Loving* and all other precedents of the Supreme Court.

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

Response: Generally speaking, 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, or (ii) in a way that infringes fundamental rights or acts on the basis of quasi-suspect or suspect characteristics. *See, e.g.*, *Armour v. City of Indianapolis, Ind.*, 566 U.S. 673 (2012). The Supreme Court has interpreted the Due Process Clause of the Fourteenth Amendment to establish procedural rules, *see, e.g.*, *Jones v. Flowers*, 547 U.S. 220 (2006), and substantive rights, *see, e.g.*, *Meyer v. Nebraska*, 262 U.S. 390 (1923).

27. 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: There is Supreme Court precedent applying constitutional provisions to 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.

However, this question implicates issues that are the subject of ongoing litigation, and that could come before me if I am confirmed. Therefore, it would be inappropriate for me as a nominee to further address this question.

28. 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 answer to Question 22.

29. 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 answer to Question 22.

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

Response: If I am fortunate enough to be confirmed, I would faithfully apply the precedents of the Supreme Court and the Third Circuit regarding the scope of First Amendment protections. However, this question implicates issues that are the subject of ongoing litigation, and that could come before me if I am confirmed. Therefore, it would be inappropriate for me as a nominee to further address this question.

31. 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: Please see my response to question 30.

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

Response: "[T]rue threats are serious expressions conveying that a speaker means to commit an act of unlawful violence." *Counterman v. Colorado*, 660 U.S. 66, 74 (2023). If I am fortunate enough to be confirmed, I would faithfully apply the precedents of the Supreme Court and the Third Circuit regarding the true threats doctrine.

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

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). However, this question implicates issues that are the subject of ongoing litigation, and that could come before me if I am confirmed. Therefore, it would be inappropriate for me as a nominee to further address this question.

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

Response: Please see my response to question 33.

35. 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: This question implicates issues that are the subject of ongoing litigation, and that could come before me if I am confirmed. Therefore, it would be inappropriate for me as a nominee to further address this question.

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: Please see my response to question 35.a.

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

Response: Yes. Nobody should be excluded from the opportunity to serve as a judge based on a protected characteristic. I believe there is value in sharing experiences with persons of varying backgrounds, life experiences, and viewpoints. Being an effective lawyer depends upon one's ability to effectively understand and articulate a diverse range of methodological and legal viewpoints. If I am fortunate enough to be confirmed, I would look forward to learning from and building relationships with my colleagues on the Third Circuit and other courts.

37. 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 source of statutory law, judges are to faithfully and impartially apply the requirements of the First Step Act, and precedents interpreting it, whenever applicable. However, this question implicates issues that are the subject of ongoing litigation, and that could come before me if I am confirmed. Therefore, it would be inappropriate for me as a nominee to further address this question.

b. Will you commit to fully and fairly considering appeals that come before you when reviewing sentencing law and its application to ensure that criminal

sentences are properly tailored to promote the goals of sentencing and avoid terms of imprisonment in excess of what is necessary?

Response: I commit to faithfully, fairly, and impartially considering all appeals that come before me if I am fortunate enough to be confirmed.

38. 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. 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: As a nominee, it would be improper for me to comment on political issues or on statements by any political figure.

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 38.a.i

b. 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: To the best of my knowledge, no, I did not speak to any such individuals in connection with the selection process that led to my nomination. Subsequent to my nomination, I spoke with Sheldon Gilbert about my work experience, my qualifications for the position, and my judicial philosophy.

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

Response: To the best of my recollection, no.

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

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

Response: No.

39. 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: To the best of my knowledge, no, I did not speak to any such individuals in connection with the selection process that led to my nomination.

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.

40. 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: To the best of my knowledge, no, I did not speak to any such individuals in connection with the selection process that led to my nomination.

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: No.

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.

41. 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: To the best of my knowledge, no, I did not speak to any such individuals in connection with the selection process that led to my nomination.

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.

42. 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: I communicated with Gene Hamilton in connection with the selection process that led to my nomination while he worked at the White House Counsel's Office. We communicated regarding my prior work experience, my interest in the nomination, my qualifications for the position, and my judicial philosophy.

b. Have you ever been asked to and/or provided services to AFLI, including 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.

43. 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: I communicated with Mike Davis during the selection process that led to my nomination. In connection with that process, we communicated regarding my prior work experience, my interest in the nomination, my qualifications for the position, and my judicial philosophy. Subsequent to my nomination, I communicated regarding similar issues, including preparing for my confirmation hearing, with Mr. Davis, Will Chamberlain, and Josh Hammer.

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.

44. 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: To the best of my knowledge, no, I did not speak to any such individuals in connection with the selection process that led to my nomination. Subsequent to my nomination, I communicated with Kellie Fieforek to discuss my qualifications for the position, my judicial philosophy, and preparing for my confirmation hearing.

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.

45. 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: To the best of my knowledge, no, I did not speak to any such individuals in connection with the selection process that led to my nomination.

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 any such donations. I am not familiar with the "Concord Fund" or "85 Fund." To the extent that this question seeks information in the abstract regarding my personal policy preferences with respect to such donations, it would not be appropriate for me, as a nominee, to address such policy questions. If I am fortunate enough to be 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: To the extent that this question seeks information regarding whether I think such donations should be made public as a policy matter, please see my response to question 45.d. More broadly, 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.

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

Response: Please see my responses to question 45.d and question 45.e.

Nomination of Emil Bove
Nominee to the United States Court of Appeals for the Third Circuit
Questions for the Record
Submitted July 2, 2025

QUESTIONS FROM SENATOR WHITEHOUSE

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

Greenhouse Gas Reduction Fund

1. **Describe any predicating evidence for a criminal investigation into the Greenhouse Gas Reduction Fund. Provide any documentation supporting predication, including any warrant applications.**

   Response: A grand jury "can investigate merely on suspicion that the law is being violated, or even just because it wants assurance that it is not." *United States v. Morton Salt Co.*, 338 U.S. 632, 642-43 (1950).

   However, this question asks me to disclose information about internal deliberations within DOJ. I am constrained from doing so as a judicial nominee and a member of the New Jersey and New York bars. First, because there is ongoing litigation relating to the Greenhouse Gas Reduction Fund, it would be inappropriate for me to comment further as a judicial nominee. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6). Second, I have an ethical obligation to preserve confidential communications and advice that I may have provided to clients, including at DOJ. *See, e.g.*, N.J. Rule 1.6; N.Y. Rule 1.6. Third, it would be inappropriate for me to disclose legal advice or other confidential information, arguably to the detriment of my clients, in a manner that could be viewed as an effort to advance my personal interest in confirmation. *See, e.g.*, N.J. Rule 1.8(b); N.Y. Rule 1.8(b). Fourth, efforts to obtain the Executive Branch's confidential information in the context of a confirmation hearing present difficult separation-of-powers questions. Fifth, even the prospect that the Executive Branch's confidential information could be required to be disclosed in the context of a confirmation hearing would undermine the candor and free exchange of ideas that is necessary to the effective operation of the Executive Branch. *See Trump v. United States*, 603 U.S. 593, 612-13 (2024) (describing "the public interest in candid, objective, and even blunt or harsh opinions in Presidential decisionmaking, as well as the need to protect communications between high Government officials and those who advise and assist them in the performance of their manifold duties" (cleaned up)). Numerous nominees have taken the same approach, including Justice Kagan, who explained at her confirmation hearing: "I cannot reveal any kind of internal deliberations of the Department of Justice." Additional examples of similar positions taken by past nominees, who were confirmed, are set forth in Appendix A to my responses to Chairman Grassley's questions for the record.

   For these reasons, I must respectfully decline to disclose internal deliberations regarding this issue.

2. **Have you personally discussed DOJ's investigation into the Greenhouse Gas Reduction Fund with EPA Administrator Lee Zeldin? If so, describe those conversations, including when they occurred, who participated, and what was said.**

   Response: Please see my response to question 1.

3. **Did Administrator Zeldin ask you or anyone else at DOJ to pursue a criminal investigation into the Fund? If so, for each individual, describe those conversations, including when they occurred, who participated, and what was said.**

   Response: Please see my response to question 1.

4. **Are you aware of DOJ's policy against making out-of-court statements regarding ongoing investigations and cases? Please describe that policy.**

   Response: Yes. Pertinent public aspects of the relevant DOJ policy are set forth beginning at section 1-7.000 of the Justice Manual, which applies to DOJ personnel.

5. As your client, Administrator Zeldin made several public statements about the Fund, accusing the Fund and its administrators of being "corrupt" and "criminal" and engaging in "kickbacks," "theft," and "graft."

   a. **Did you discuss those statements with Administrator Zeldin? If so, describe any conversations you had on this topic, including when they occurred, who participated, and what was said.**

      Response: I am not familiar with the above-quoted comments or their context. To the extent this question seeks non-public information regarding internal deliberations at DOJ, please see my response to question 1.

   b. **Did DOJ counsel Administrator Zeldin regarding derogatory comments about subjects of a DOJ investigation? If so, describe any conversations you had on this topic, including when they occurred, who participated, and what was said.**

      Response: Please see my response to question 1.

   c. **Were these comments authorized by DOJ? If so, describe any conversations you had on this topic, including when they occurred, who participated, and what was said.**

      Response: Please see my response to question 1.

d. **Did you discuss those out-of-court statements with anyone at DOJ? If so, describe any conversations you had on this topic, including when they occurred, who participated, and what was said.**

Response: Please see my response to question 1.

6. **Did President Trump or anyone at the White House ask you or anyone else at DOJ to pursue a criminal investigation into the Fund? If so, describe those conversations, including when they occurred, who participated, and what was said.**

Response: Please see my response to question 1.

7. **Describe any conversations you had with President Trump or anyone else at the White House regarding the Greenhouse Gas Reduction Fund, including when they occurred, who participated, and what was said.**

Response: Please see my response to question 1.

8. **Did you direct Ed Martin to initiate a criminal investigation into the Greenhouse Gas Reduction Fund?**

Response: Please see my response to question 1.

9. **Describe any conversations you had with Mr. Martin regarding the Greenhouse Gas Reduction Fund, including when they occurred, who participated, and what was said.**

Response: Please see my response to question 1.

10. **Did you direct Denise Cheung to pursue a criminal investigation into the Fund?**

Response: Please see my response to question 1.

11. **Describe any conversations you had with Ms. Cheung regarding the Greenhouse Gas Reduction Fund, including when they occurred, who participated, and what was said.**

Response: Please see my response to question 1.

12. **Did you ask Ms. Cheung to resign after she refused to open an investigation? If so, describe any conversations you had on this topic, including when they occurred, who participated, and what was said.**

Response: I am aware of public reports relating to the resignation of Denise Cheung in February 2025. Based on those reports, it is my understanding that Ms. Cheung has claimed that she resigned in response to directives from the Acting U.S. Attorney at the time. To the extent this question seeks non-public details regarding Ms. Cheung, please see my response to question 1.

13. **Did you otherwise participate in any conversations about Ms. Cheung's continued employment with the U.S. Attorney's Office after she refused to open an investigation? If so, describe any conversations you had on this topic, including when they occurred, who participated, and what was said.**

    Response: Please see my response to question 1.

14. **A District of Columbia magistrate judge denied a warrant application signed by Mr. Martin seeking to freeze the Greenhouse Gas Reduction Fund. On what date did that occur?**

    Response: I do not recall.

    a. **On what grounds did the magistrate judge deny that application? Please provide a copy of the application and a copy or transcript of the judge's ruling.**

       Response: I am not aware of a public document that is responsive to this question. For the reasons set forth in response to question 1, I must respectfully decline to disclose non-public materials that may be relevant to this question.

    b. **Did you discuss the magistrate's denial of the seizure warrant application with Administrator Zeldin? If so, describe any conversations you had on this topic, including when they occurred, who participated, and what was said.**

       Response: Please see my response to question 1.

    c. **Did you discuss the magistrate's denial of the seizure warrant application with anyone at DOJ? If so, describe any conversations you had on this topic, including when they occurred, who participated, and what was said?**

       Response: Please see my response to question 1.

15. **When the D.C. magistrate judge denied Martin's seizure warrant application, did you ask other U.S. Attorney's Offices to seek a seizure warrant or otherwise pursue an investigation?**

Response: Please see my response to question 1.

a. If so, why?

Response: Please see my response to question 1.

b. List each U.S. Attorney's Office and individual you spoke to in your office about this topic.

Response: Please see my response to question 1.

c. Did any U.S. Attorney's Office you contacted refuse to take up the investigation? List each office that refused and explain why.

Response: Please see my response to question 1.

d. Did any U.S. Attorney's Office you contacted agree to take up the investigation? Which offices, and what steps did they take to pursue the matter?

Response: Please see my response to question 1.

e. Did any other court deny a seizure warrant application or any other motion related to any attempt to open an investigation into the Greenhouse Gas Reduction Fund? List each court and provide a copy of the application or motion and a copy or transcript of the judge's ruling.

Response: I am not aware of a public document that is responsive to this question. For the reasons set forth in response to question 1, I respectfully decline to disclose non-public materials that may be relevant to this question.

f. The Washington Post reported that Washington, D.C., FBI agents began questioning EPA officials about the Greenhouse Gas Reduction Fund at the behest of a federal prosecutor in the Southern District of Florida.

i. Is that true?

Response: Please see my response to question 1.

ii. Who asked the FBI to begin questioning EPA officials about this matter and on what grounds?

Response: Please see my response to question 1.

iii. At whose request did the U.S. Attorney's Office for the Southern District of Florida take this action?

Response: Please see my response to question 1.

16. Are you familiar with *Climate United Fund v. Citibank*, the civil action regarding EPA's termination of Greenhouse Gas Reduction Fund grants?

Response: Yes.

a. In that case, the EPA did not claim any fraud occurred. Rather, the DOJ attorney representing the EPA said it was concerned about the *risk* of fraud. Civil actions require a lower standard of proof than criminal actions, yet no fraud was alleged in the civil case.

b. When did DOJ initiate a criminal investigation into the Fund? Is the criminal investigation ongoing? If not, when did the investigation end?

Response: Please see my response to question 1.

c. When did the DOJ attorney representing EPA make the claim it was concerned about the risk of fraud with the Fund and not that actual fraud had occurred?

Response: Please see my response to question 1.

d. Was DOJ's criminal investigation into the Fund ongoing when the DOJ attorney representing the EPA said it was concerned about the risk of fraud and not that fraud had actually occurred?

Response: Please see my response to question 1.

e. If so, how do you square pursuing a criminal investigation of fraud, waste, and abuse, when DOJ did not allege fraud, waste, and abuse in a civil proceeding?

Response: Please see my response to question 1.

f. Did Administrator Zeldin make public statements disparaging the fund after DOJ argued in *Climate United Fund v. Citibank* that EPA was concerned about the risk of fraud and not that fraud had occurred?

Response: I am not aware of the statements referenced in this question or their context.

g. Were you aware of Administrator Zeldin's disparaging comments at any time? What action did you or DOJ take?

Response: I am not aware of the statements referenced in this question or their context. To the extent this question seeks non-public information regarding internal deliberations at DOJ, please see my response to question 1.

17. As reported in Politico, you were on an email chain from March 9th and 10th in which a longtime career EPA lawyer had assessed that DOJ's approach to this matter had "significant legal vulnerabilities."

a. Please provide a copy of that email chain, including any replies.

Response: To the extent this question seeks non-public materials separate from the email thread that was leaked in the media, please see my response to question 1.

b. Why did you continue to pursue this matter despite that assessment?

Response: Please see my response to question 1.

Mayor Eric Adams

18. Did you broker a deal to drop corruption charges against New York City Mayor Eric Adams in exchange for Adams's cooperation with federal immigration enforcement efforts?

Response: No. Mayor Adams's submissions to the district court and sworn statements at a February 19, 2025 hearing refute false public allegations by third parties regarding some sort of improper *quid pro quo* underlying the Department of Justice's decision to file that motion. *See* ECF No. 145 at 20-21, 44-45, *United States v. Adams*, No. 24 Cr. 556 (S.D.N.Y. 2025).

a. Whose idea was this deal?

Response: Please see my response to question 18.

b. Who signed off on it?

Response: To the extent "it" is the alleged "deal" referenced in question 18, please see my response to question 18.

c. Did you or anyone at DOJ ever speak to President Trump or anyone at the White House about dropping the corruption charges against Adams?

Response: Please see my response to question 1.

i. Did President Trump personally ask you or anyone at DOJ to drop the corruption charges?

Response: Please see my response to question 1.

ii. Did anyone at the White House ask you or anyone at DOJ to drop the corruption charges?

Response: Please see my response to question 1.

iii. Describe any conversations you had with President Trump or anyone at the White House on this topic, including for each individual when they occurred, who participated, and what was said.

Response: Please see my response to question 1.

d. Did you speak with Pam Bondi about dropping the corruption charges against Adams?

Response: My February 10, 2025 memorandum to the Acting U.S. Attorney for the Southern District of New York regarding dismissal of the case against Mayor Adams, which is publicly available, states that the directive was "authorized by the Attorney General." To the extent this question seeks non-public details regarding the matter, please see my response to question 1.

i. Did AG Bondi ask you to drop the corruption charges?

Response: Please see my response to question 1.

ii. Describe any conversations you had with AG Bondi on this topic, including when they occurred, who participated, and what was said.

Response: Please see my response to question 1.

e. Did you speak to Tom Homan about dropping the corruption charges against Adams?

Response: Please see my response to question 1.

i. **Did Mr. Homan ask you to drop the corruption charges?**

Response: Please see my response to question 1.

ii. **Describe any conversations you had with Mr. Homan on this topic, including when they occurred, who participated, and what was said.**

Response: Please see my response to question 1.

19. Who initiated the January 21, 2025, meeting between you, Mayor Adams's lawyers, and SDNY lawyers, including Danielle Sassoon?

Response: Please see my response to question 1.

a. **Did you discuss dropping charges against Mayor Adams in exchange for his help in carrying out President Trump's immigration agenda at this meeting?**

Response: I did not speak to Mayor Adams's counsel about "dropping charges against Mayor Adams in exchange for his help in carrying out President Trump's immigration agenda." For the reasons set forth in question 1, I am not at liberty to disclose details of internal non-public communications between the Office of the Deputy Attorney General and the U.S. Attorney's Office for the Southern District of New York.

b. **Describe the conversation, including who participated and what was said.**

Response: Please see my response to question 1.

c. **Did you admonish government attorneys who attended that meeting for taking notes? Why?**

Response: During a meeting that included Mayor Adams's counsel and personnel from the U.S. Attorney's Office, in the context of a discussion about who was responsible for media leaks relating to the case, I observed, in substance, that the only person in the meeting taking extensive notes was one of the prosecutors. I did not consider the statement to be an admonishment.

d. **Were those notes confiscated? Did you direct the confiscation of those notes? Provide a copy of those notes.**

Response: As I noted at my confirmation hearing, it is my understanding that a member of my staff collected the notes when I was not in the room. I defer to the relevant personnel in the Executive Branch on the negotiation of appropriate confirmation procedures with the Committee and addressing document requests at this point in the proceedings.

20. Did you direct Danielle Sassoon to drop the charges against Mayor Adams?

Response: Yes, in a publicly available memorandum issued on February 10, 2025.

21. In her resignation letter, Acting U.S. Attorney Danielle Sassoon said, "Mr. Bove rightly has never called into question that the case team conducted this investigation with integrity and that the charges against Adams are serious and supported by fact and law."

a. Do you dispute that statement?

Response: At the time Ms. Sassoon submitted her resignation, I had not expressed concerns to her about the case team's conduct, the legal theories of the prosecution, or the evidence. However, DOJ subsequently laid out concerns regarding some of these issues in a publicly filed brief that I signed. *See* ECF No. 160, *United States v. Adams*, No. 24 Cr. 556 (S.D.N.Y. 2025).

b. Provide copies of any evidence supporting the contention that Mayor Adams's prosecution was politically motivated.

Response: DOJ submitted information sufficient to warrant dismissal of the charges pursuant to Rule 48 of the Federal Rules of Criminal Procedure in connection with public filings in the case against Mayor Adams. *See, e.g.*, ECF Nos. 122, 160, *United States v. Adams*, No. 24 Cr. 556 (S.D.N.Y. 2025). To the extent this question seeks non-public materials from DOJ, please see my response to question 1 and question 19.d.

22. Who negotiated Adams's consent to the dismissal of the charges without prejudice? When? Were you involved in those negotiations?

Response: I was involved in the negotiations with Mayor Adams's counsel. To the extent this question seeks non-public information regarding internal deliberations at DOJ, please see my response to question 1.

23. Why did DOJ seek dismissal without prejudice rather than dismissal with prejudice?

Response: As I explained at my confirmation hearing, the decision to seek dismissal without prejudice was based on two considerations that have already been described in public.

First, dismissal without prejudice is the default. "Several circuits, including the Second Circuit, have recognized that a dismissal pursuant to Rule 48(a) is generally without prejudice." *United States v. Rosenberg*, 108 F. Supp. 2d 191, 207 (S.D.N.Y. 2000); *see also United States v. Gogarty*, 533 F.2d 93, 95 (2d Cir. 1976).

Second, dismissal without prejudice would have permitted the permanent U.S. Attorney to reevaluate the case following the 2025 Mayoral election, which would have mitigated some of the concerns about interference with Mayor Adams's campaign and his ability to govern.

24. In response to Sassoon's resignation, you referred her and her team to the Office of Professional Responsibility to be investigated and placed attorneys who worked for her on administrative leave.

    a. What grounds did you have for doing so?

    Response: On February 5, 2025, Attorney General Bondi issued a publicly available memorandum, entitled "General Policy Regarding Zealous Advocacy on Behalf of the United States." The memorandum stated that "[w]hen Department of Justice Attorneys . . . refuse to advance good-faith arguments by declining to appear in court or sign briefs, it undermines the constitutional order and deprives the President of the benefit of his lawyers." The memorandum relied in part on attorneys' ethical obligations to "zealously advance, protect, and defend their client's interests." The memorandum concluded: "[A]ny attorney who because of their personal political views or judgments declines to sign a brief or appear in court, refuses to advance good-faith arguments on behalf of the Administration, or otherwise delays or impedes the Department's mission will be subject to discipline and potentially termination, consistent with applicable law."

    b. What is the status of the investigation?

    Response: Please see my response to question 1.

    c. Provide any documents you gave to the Office of Professional Responsibility related to that referral.

    Response: Please see my response to question 1.

25. Did you summon approximately two dozen Public Integrity attorneys on February 14, 2025, and order them to find someone to file the motion to dismiss the charges against Mayor Adams or be fired? Describe that conversation.

Response: I scheduled a video meeting with members of the Public Integrity Section on February 14, 2025. It was never my intention to coerce, pressure, or induce any DOJ attorney—through adverse employment actions, threats, rewards, or otherwise—to sign the motion to dismiss the charges against Mayor Adams. To the contrary, I intended to convey during the February 14, 2025 video meeting that (1) I wished to move past the resignations and return to the Public Integrity Section's remaining work, (2) no one would be terminated if they declined to sign the motion, and (3) attorneys who comported

themselves in a manner consistent with the zealous advocacy principles set forth in the Attorney General's February 5, 2025 memorandum would be considered for existing vacancies in the supervisory chain of the Public Integrity Section.

According to public reporting from February 2025, I told the Public Integrity Section attorneys on the call that "it had been a long week and that [I] wanted all of them to be able to move on, according to two people who were on the call." *See* https://www.theguardian.com/us-news/2025/feb/19/donald-trump-eric-adams-justice-department. The report also indicated that I "told them [I] didn't want to get anyone in trouble, . . . so [I] didn't want to know who was opposed to signing the motion to dismiss." The report also stated that I wanted "two trial attorneys to attach their names because that was the standard practice and because it was easier to have a team than being alone." *Id.* This is all consistent with my general recollection of the meeting..

a. Did any of those attorneys resign rather than file the motion? How many?

Response: I do not recall whether any of the Public Integrity Section attorneys who attended the video meeting resigned and, if so, whether any such Public Integrity Section attorneys explained at the time that their decision was based on a personal view—which would have been incorrect and inconsistent with what I conveyed during the meeting—that it was necessary to resign in order to avoid joining the motion.

b. What did these attorneys communicate to you about their decisions to resign? Please describe any statements these attorneys made to you before making this decision.

Response: Please see my response to question 25.a.

c. How did you respond in each case?

Response: Please see my response to question 25.a.

26. Why did you appear alone to defend the Rule 48 motion in front of Judge Ho on February 19, 2025?

Response: I made the decision to represent DOJ at the February 19, 2025 hearing because, for several reasons, I believed that was the appropriate thing to do as a leader. I wanted to try to alleviate stress on the Public Integrity Section that arose from the intense scrutiny on the motion to dismiss, including the two attorneys who had signed the motion. Given that scrutiny, I also felt that it was appropriate for a member of DOJ's senior leadership to address the district court's questions. Finally, in the context of a period when DOJ attorneys were working extremely hard to represent our clients under challenging circumstances all over the country, I hoped that my handling of the hearing would demonstrate that I was personally committed to our collective efforts at DOJ,

believed filing the motion was the right thing to do, and had no reservations about explaining why in a public setting.

a. Were you unable to find any career DOJ attorney willing to defend the motion in the hearing?

Response: No, that is not correct. To my knowledge, no DOJ attorney declined a request to participate in the hearing on February 19, 2025.

27. On February 14th, Mr. Homan and Mayor Adams appeared together on Fox News, during which Mr. Homan referenced an apparent *quid pro quo* agreement: "If he doesn't come through, I'll be back in New York City and we won't be sitting on the couch. I'll be in his office, up his butt saying, 'Where the hell is the agreement we came to?'"

a. To what "agreement" is Homan referring in this segment?

Response: I do not know.

Whistleblower Allegations

28. Did you encourage Erez Reuveni and other DOJ lawyers to defy court orders enjoining removals pursuant to President Trump's executive order invoking the Alien Enemies Act?

Response: No.

29. Did you tell Mr. Reuveni and other DOJ lawyers that they should consider telling the courts "fuck you" if they enjoined any attempted removals under the Alien Enemies Act?

Response: I do not recall making the statement alleged in question 29.

30. Did you have any involvement in the decision to terminate Mr. Reuveni?

Response: Yes.

a. Describe any conversations you had on this topic, including when they occurred, who participated, and what was said.

Response: Please see my response to question 1.

b. Was Mr. Reuveni terminated, in whole or in part, because of statements he made to the court in connection with litigation related to removals under the Alien Enemies Act?

Response: Please see my response to question 1.

31. Did you speak to Stephen Miller or anyone else at the White House about Mr. Reuveni's performance in the Alien Enemies Act litigation or the decision to terminate him? Describe any conversations you had with anyone at the White House on this topic, including when they occurred, who participated, and what was said.

Response: Please see my response to question 1.

General Questions

32. In 2023, you began working as Donald Trump's personal lawyer. Do you believe, like Ed Martin and Pam Bondi have expressed, that DOJ lawyers are "Trump's lawyers"? Explain.

Response: I am not familiar with the comment or comments referenced in question 32. I am no longer a personal lawyer for President Trump. I work at DOJ. I took an oath to support and defend the Constitution when I started that job. I have abided that oath. If I am fortunate enough to be confirmed, I would have the honor of taking another oath. Should I be so honored, I would commit myself to upholding that oath every day.

Nomination of Emil Bove III to be United States Circuit Judge for the Third Circuit
Questions for the Record
Submitted July 2, 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 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: No, it is not appropriate for a court of appeals judge to ignore, disregard, refuse to implement, or issue an order that is contrary to 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).

3. Do you agree that federal judges, and all judges and attorneys, must be held to the highest ethical standard, especially for their conduct behind closed doors?

   Response: Yes.

   a. What ethical duty does an attorney have when they encounter legal misconduct during litigation?

      Response: Applicable rules of professional responsibility and related opinions govern this issue. *See, e.g.*, New York Rule 8.3 (reporting professional misconduct).

   b. Should an attorney or judge ever obfuscate, minimize, or seek to cover-up evidence of misconduct during litigation?

      Response: Applicable rules of professional responsibility and related opinions govern this issue. For example, New York Rule 8.3(a) is only implicated when misconduct "raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer . . . ." Similarly, "[a] report about

misconduct is not required where it would result in violation of [New York] Rule 1.6." Cmt. 2, New York Rule 8.3.

4. In response to questioning by Sen. Schiff, you testified that you had no recollection of whether, as has been alleged, you said in a March 14, 2025, meeting with regard to *Alien Enemies Act* litigation that the Department of Justice (DOJ) should consider telling the courts "fuck you" and ignoring court orders. I have trouble understanding how whether or not you said this just three months ago is possibly something you cannot recall.

    a. Is it still your view that you do not recall whether you said DOJ should consider telling the courts "fuck you" during a meeting on March 14, 2025?

    Response: I do not recall making the statement alleged in question 4.a.

    b. Have you ever expressed a view to your DOJ colleagues that DOJ may have to consider ignoring, not following, or otherwise not acting to implement a federal court order? If your answer is that you do not recall, is that sentiment something you believe you could have said?

    Response: Generally speaking, I have expressed a view that DOJ would need to seek a stay or otherwise aggressively pursue litigation options, especially in the context of appellate strategy, to protect the Administration's interests in implementing valid policies.

    c. Have you ever expressed a view to your DOJ colleagues that DOJ should tell courts "fuck you", or something to that effect, in any context? If your answer is that you do not recall, is that sentiment something you believe you could have said?

    Response: Yes, but only to the extent the reference in question 4.c to "something to that effect" includes aggressively pursuing litigation options (including appellate options) and implementing stays of court orders issued by appellate courts.

    d. Is it in your view ever appropriate for DOJ to ignore, not follow, or fail to implement a federal court order until such order has been vacated or stayed by a higher court? Please explain all circumstances.

    Response: Generally speaking, because federal court orders are typically binding on the parties to a litigation in the absence of appellate relief, it would not be appropriate for DOJ to ignore, not follow, or fail to implement an order issued in a case in which DOJ is a party.

    With respect to potential exceptions to that rule, 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); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 Iowa L. Rev. 1267, 1326 (1996) (constitutional error "so clear that it is not open to rational question"); *see also* 17 Corpus Juris Secundum Contempt §§ 56-65 (discussing contempt defenses); Josh Blackman, *The Department of Justice's 'Longstanding' General Practice of Intracircuit Nonacquiescence*, The Volokh Conspiracy (May 16, 2025). Some litigants and jurists have drawn a distinction between a court's binding "judgment[]" and its "statements in opinions." *Camreta v. Greene*, 563 U.S. 692, 704 (2011).

Certain interlocutory orders might be immediately appealable only via the avenue of a contempt finding, in which case defying the order would arguably be the exclusive path to appellate review. *See, e.g.*, *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) ("Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions."); *In re Grand Jury*, 705 F.3d 133, 142 (3d Cir. 2012). In *Maness v. Meyers*, 419 U.S. 449, 465-66 (1975), the Supreme Court addressed "whether in a civil proceeding a lawyer may be held in contempt for counseling a witness in good faith to refuse to produce court-ordered materials on the ground that the materials may tend to incriminate the witness in another proceeding." *Id.* at 465. Based on the record before it, the Court held that the lawyer could "not be penalized even though his advice caused the witness to disobey the court's order." The Court explained that "[t]he privilege against compelled self-incrimination would be drained of its meaning if counsel, being lawfully present, as here, could be penalized for advising his client in good faith to assert it." *Id.* at 465-66 (footnote omitted).

Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to provide an answer that categorically predetermines the validity of potential legal arguments for or against adhering to court orders. If any such issues came before me as a judge, I would resolve those issues through careful consideration and application of the parties' arguments and the governing law and precedents.

5. During your time as Co-Chief of the Terrorism and International Narcotics Unit in the U.S. Attorney's Office for the Southern District of New York, you oversaw the office's prosecution of *United States v. Nejad*. During litigation of that case in 2020, prosecutors under your supervision failed to disclose evidence to the defense and then sought to cover up their mistake by trying to bury it among previously disclosed items. This was quickly discovered by the defense and by the court. Text messages and emails from this incident show that you were directly aware of the error, that you understood the gravity of the misconduct, and that you oversaw the vague and misleading explanations provided to the court by the attorneys under your supervision. Indeed, you texted your Co-Chief at the time that your unit's initial explanation to the court regarding the buried evidence was a "[f]lat lie."

a. The federal district judge described the conduct of your office during this incident as a "grave dereliction[] of prosecutorial responsibility" that "reflect[ed] a systemic disregard of . . . disclosure obligations." The judge condemned your conduct specifically, saying: "the prosecutors—including the Unit Chiefs—dug themselves in deeper rather than squarely tak[ing] responsibility for their past missteps" and "[t]he supervising Unit Chiefs appear to have offered little in the way of supervision." Why did your unit obfuscate, minimize, and seek to cover-up, rather than taking responsibility for its mistake upfront?

Response: I respectfully disagree with this question's characterization of the record in *Nejad*. I sent the above-referenced text message after 11:00 p.m. on the night of March 8, 2020, after I learned for the first time—from a defense submission to the court rather than the prosecutors assigned to the case—of arguably misleading language used by the assigned prosecutors in earlier communications with defense counsel. *See* ECF No. 400-1 ¶¶ 30-31, *United States v. Nejad*, No. 18 Cr. 224 (S.D.N.Y. Feb. 22, 2021). The text message reflected my frustration that the communication had not been shown to me by the assigned prosecutors while earlier submissions to the court were being prepared. As one of the co-chiefs of the unit, as soon as complete information was provided to me regarding the gravity of the discovery problem at issue, I did everything in my power to prevent further vague or misleading explanations from being provided to the court and defense counsel. This culminated in the extraordinary step, which I supported and believe was appropriate, of moving to dismiss the charges notwithstanding the jury's guilty verdict.

The district court's "deeper" comment concerned a hearing on the morning of March 9, 2020 relating to a submission that one of the assigned prosecutors had filed at approximately 10:00 p.m. on March 8. *See United States v. Nejad*, 521 F. Supp. 3d 438, 449 (S.D.N.Y. 2021). I respect the court's criticisms in *Nejad* and understand that they were intended to spark necessary improvements in discovery practices to protect defendants' rights, but I do not think that particular comment by the court fully accounted for (1) the instruction conveyed by my Co-Chief and I to the assigned prosecutor to "fall on our sword" at the March 9 hearing, and (2) the fact that I did not understand at the time of the hearing how one of the assigned prosecutors had edited the letter before filing it. *See* ECF No. 400-1 ¶¶ 34, 38, *United States v. Nejad*, No. 18 Cr. 224 (S.D.N.Y. Feb. 22, 2021).

Similarly, while I understand that my efforts as a supervisor were not sufficient to prevent the discovery problems in *Nejad*, it is difficult for me to square the court's comment that we "offered little in the way of supervision" with that reality of that weekend in March 2020. Specifically, I was physically in the office with the trial team on Saturday, March 7, and Sunday, March 8. I communicated with one or more of the assigned prosecutors after 9:00 p.m. on both of those nights. I communicated with my immediate supervisor about the issue on the evening of Sunday, March 8, and beginning at 5:43 a.m. on Monday, March 9.

b. If you could replay this episode, what would you do differently?

Response: Two things stand out upon reflection. First, when I became a supervisor in approximately October 2019, I would not have permitted the case to proceed because the Manhattan District Attorney's Office had not appropriately maintained investigative files in connection with a lengthy predecessor investigation and was not sufficiently committed to the ongoing federal discovery obligations in the case. Second, on the evening of Sunday, March 8, 2020, I would have directed the assigned prosecutors to ask the court for an adjournment of the submission deadline so that we could have more time to ensure that the assigned prosecutors provided a complete and accurate accounting to the court.

c. The judge in this opinion urged a full investigation of your unit's misconduct by DOJ's Office of Professional Responsibility. Did such an investigation ever take place and, if so, what were the results?

Response: There was an investigation. I was a witness, rather than a target or subject, in that investigation. To my knowledge, there were no findings of intentional misconduct by the assigned prosecutors. I also addressed this issue in response to question 3.a of the confidential portion of the Senate Judiciary Questionnaire.

d. What would you say to those who would question your ethical qualifications to serve as a federal judge in response to this incident?

Response: *Nejad* casts no doubt on my ethical qualifications to serve as a federal judge. I did not engage in any unethical behavior in connection with that case, and the judge's findings regarding the behavior of the assigned prosecutors I supervised do not suggest otherwise. On the whole, the case demonstrates that I was disturbed by discovery violations that impacted a defendant's rights and the integrity of the proceedings, that I was directly engaged in examining and addressing those violations, and that I took extensive remedial steps to address the problems we discovered. Those steps continued after the case was dismissed and included meeting with the prosecutors, facilitating trainings, and serving on the Office's discovery committee to help address complex disclosure issues in other cases.

6. 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: As I explained in my Senate Judiciary Questionnaire, if I am confirmed, I would refer to 28 U.S.C. § 455, the Code of Conduct for United States Judges, any guidance provided by the Chief Judge of the Third Circuit and the Administrative Office for the United States Courts, and any other applicable laws, rules, and practices

governing conflicts of interest. In situations that present actual conflicts of interest based on my current or prior positions at the Department of Justice, I would recuse myself from any cases in which I was personally involved as a prosecutor or supervisor. In situations involving potential conflicts of interest, I would disclose all relevant information to the parties, allow the parties to be heard, and then rule on any recusal motion based upon the application of all relevant authorities and guidance. Beyond that, it would be inappropriate for me to prejudge any hypothetical recusal motion.

a. You worked as a partner at Blanche Law PLLC from 2023-2025. In your Senate Judiciary Questionnaire, you described your practice as "focused on working with the firm's founder, Todd Blanche, to represent President Trump in trial court and appellate proceedings" related to three of President Trump's criminal prosecutions. Should you be confirmed, would you recuse yourself from future cases involving President Trump? Why or why not?

   Response: Please see my response to question 6.

7. Did anyone at the White House speak to you about Eric Adams' case prior to your decision to drop it? If so, who did you speak to, when, and what did they say?

   Response: As a judicial nominee and a member of the New Jersey and New York bars, I must respectfully decline to disclose non-public facts and internal deliberations in response to this question.

   First, I have an ethical obligation to preserve confidential communications and advice that I may have provided to clients, including at DOJ. *See, e.g.*, N.J. Rule 1.6; N.Y. Rule 1.6. Second, it would be inappropriate for me to disclose legal advice or other confidential information, arguably to the detriment of my clients, in a manner that could be viewed as an effort to advance my personal interest in confirmation. *See, e.g.*, N.J. Rule 1.8(b); N.Y. Rule 1.8(b). Third, efforts to obtain the Executive Branch's confidential information in the context of a confirmation hearing present difficult separation-of-powers questions. Fourth, even the prospect that the Executive Branch's confidential information could be required to be disclosed in the context of a confirmation hearing would undermine the candor and free exchange of ideas that is necessary to the effective operation of the Executive Branch. *See Trump v. United States*, 603 U.S. 593, 612-13 (2024) (describing "the public interest in candid, objective, and even blunt or harsh opinions in Presidential decisionmaking, as well as the need to protect communications between high Government officials and those who advise and assist them in the performance of their manifold duties" (cleaned up)). Numerous nominees have taken the same approach, including Justice Kagan, who explained at her confirmation hearing: "I cannot reveal any kind of internal deliberations of the Department of Justice." Additional examples of similar positions taken by past nominees, who were confirmed, are set forth in Appendix A to my responses to Chairman Grassley's questions for the record.

   a. Did Stephen Miller speak with you about Eric Adams' case? What did he say?

Response: Please see my response to question 7.

b. Did Stephen Miller ever encourage or directly ask you to drop Eric Adams' case? If so, how did you respond?

Response: Please see my response to question 7.

c. Did you speak with Todd Blanche about Eric Adams' case prior to Blanche's confirmation as Deputy Attorney General?

Response: Please see my response to question 7.

d. In a letter written by Interim U.S. Attorney Danielle Sassoon, she stated that she discussed the Adams case with you and "expressed concern" about making a decision about dropping the case before Blanche's confirmation. She recounted that you told her Blanche was on the "same page" with your decision to drop the case. Is Sassoon's letter accurate? Do you know if Blanche was on the "same page" with you about the decision to drop the Adams case? If so, how do you know?

Response: I do not dispute that I said something along the lines of what Ms. Sassoon wrote in her letter on this issue. The context for my statement, as Ms. Sassoon acknowledged in the letter, was her suggestion during our conversation that DOJ's senior leadership should wait to decide whether to seek dismissal of the charges against Mayor Adams until Mr. Blanche was confirmed as the Deputy Attorney General. In my responsive statement to Ms. Sassoon, I sought to convey that I did not feel it was necessary to wait, and I made that statement based on my extensive experience working closely with Mr. Blanche and my understanding of how he thinks about such matters.

e. During your meeting with Eric Adams' attorneys, did you tell an attorney in the room to stop taking notes? Why?

Response: I do recall using those terms.

f. Did you send an email to DOJ employees stating "for those who do not support our critical mission, I understand there are templates for resignation letters available on the websites of the New York Times and CNN"? Why? Which "templates for resignation letters" were you referencing?

Response: As noted in my Senate Judiciary Questionnaire, I issued a public statement to that effect following the February 19, 2025 court hearing relating to the motion to dismiss the charges against Mayor Adams. I was referring to the resignation letters submitted by Ms. Sassoon and Hagen Scotten. I made the statement because I believe that DOJ employees should be committed to the

initiatives articulated by the Attorney General and devoted to advocating zealously on behalf of DOJ's clients.

8. Were you involved in terminating federal prosecutors who worked on January 6 cases?

   Response: Yes.

   a. If so, why did you terminate these prosecutors?

      Response: I issued a publicly available memorandum on January 31, 2025 relating to the terminations of the probationary employees at the U.S. Attorney's Office for the District of Columbia. The memorandum explained my understanding that "after President Trump was elected to his second term in Office, the Biden Administration's Justice Department converted these [term] employees to permanent status," which "resulted in the mass, purportedly permanent hiring of a group of AUSAs" that "improperly hindered the ability of Acting U.S. Attorney [Ed] Martin to staff his office in furtherance of his obligation to faithfully implement the agenda that the American people elected President Trump to execute." The memorandum further explained that these "subversive personnel actions" drove my thinking about the termination decisions of these probationary employees.

      To the extent this question seeks non-public information regarding personnel decisions, I respectfully decline to respond for the reasons set forth in my response to question 7. I am also limited in the extent to which I can address this question because these decisions and the underlying events on January 6, 2021 are subject to ongoing litigation in federal court and before the Merit Systems Protection Board. *See, e.g.*, *Blassingame, et al. v. Trump*, No. 21 Civ. 858 (D.D.C.).

   b. How did you decide which prosecutors to terminate for working on January 6 cases and which were permitted to keep their jobs at the Department?

      Response: Please see my response to question 8.a.

9. While serving in the U.S. Attorney's Office for the Southern District of New York, did you participate in efforts to identify and arrest individuals who participated in the January 6 insurrection?

   Response: I supervised prosecutors who worked on matters relating to events on January 6, 2021.

   a. How many January 6 investigations did you work on?

      Response: I do not recall how many individual matters relating to events on January 6, 2021 that I supervised.

10. Before Kash Patel was confirmed as Director of the Federal Bureau of Investigation, did you ever discuss FBI personnel decisions with him?

    Response: Please see my response to question 7.

    a. If so, what did you discuss?

       Response: Please see my response to question 7.

    b. Was Stephen Miller ever involved in any conversations you had with Patel about FBI personnel decisions before Patel was confirmed as FBI Director?

       Response: Please see my response to question 7.

    c. If so, what did you discuss?

       Response: Please see my response to question 7.

11. Who made the decision to fire Liz Oyer from her position as DOJ Pardon Attorney?

    Response: For the reasons set forth in my response to question 7, I must respectfully decline to provide information regarding internal deliberations on this issue. It would also be inappropriate for me to comment on this matter because it is the subject of ongoing litigation.

    a. Were you involved in the decision-making process?

       Response: Yes.

    b. Did you advocate for the termination of Ms. Oyer from her position? If so, why?

       Response: Please see my response to question 11.

12. Were you involved in the decision to reassign Bradley Weinsheimer away from his career position as an associate deputy attorney general providing ethics counsel to DOJ attorneys?

    Response: Yes.

    a. If so, why was the decision made to remove Weinsheimer from his ethics post?

       Response: For the reasons set forth in my response to question 7, I respectfully decline to provide information regarding internal deliberations on this issue.

    b. Were you involved in the decisions to reassign Weinsheimer's ethics responsibilities to two junior political appointees?

Response: I was involved in decisions relating to the reassignment of Mr. Weinsheimer's duties.

c. If so, why did you make that decision?

Response: Please see my response to question 12.a.

13. Have you ever received complaints, formally or informally, about your temperament? If yes, how did you respond to such complaints? Please explain.

Response: I have received constructive criticism in professional settings addressed at my confirmation hearing, including regarding my temperament. When I receive constructive criticism, I do my best to incorporate the feedback and improve my performance as an attorney and a manager.

14. In 2018, the then-Executive Director of the Federal Defenders of New York sent a letter to your supervisors in the Southern District of New York, where you were serving as an Assistant U.S. Attorney, informing them that your behavior was a liability for the office. The letter writes, "I wouldn't reach out if I didn't think it was serious and widespread enough to convince me that [it] is not just a matter of personality conflicts." The letter refers to comments from *eight separate individuals* about your behavior. These complaints refer to you as requiring "adult supervision," acting "hung up on a power trip," and being "quick to bully."

Response: The 2018 communication described above was an email rather than a letter. As I explained at my confirmation hearing, the inaccurate claims in the 2018 email—if true, which they were not—would have triggered reporting obligations on the part of the attorneys who made these assertions. *See* New York Rule 8.3(a). If true, which they are not, these claims would also have triggered separate zealous-advocacy obligations on the part of the defense attorneys in question to seek judicial relief on behalf of their clients in the cases I was responsible for prosecuting. *See, e.g.*, Cmt. 1, N.Y. Rule 1.3 ("A lawyer must also act with commitment and dedication to the interests of the client and in advocacy upon the client's behalf."). In that setting, the failure of a defense lawyer to file a motion seeking relief based on such allegations—if they were true, which they are not—could have constitutional implications under the Sixth Amendment's right to effective counsel. I am not aware of such motions or related judicial findings, which is consistent with my position that the claims in the 2018 email are not well founded.

a. Do you think that the proper candor of a judge is that of a "bully" or an individual requiring "adult supervision"?

Response: Respectfully, I do not understand the meaning of this question and, in particular, the meaning of the term "proper candor."

b. In this same letter, one comment refers to your behavior as "indicative of his attitude that he has all the power and cannot be bothered to treat lesser mortals

with respect or empathy. I know that there will always be personality conflicts . . . [b]ut he's a real, recurrent problem[.]" What role, if any, should empathy play in a judge's decision-making process?

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. Judges should not decide cases based on their personal views, or on their preference for a particular outcome or party. However, judges should also keep in mind that their decisions have real-world consequences, 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.

c. Do you think judges should treat parties before them with respect?

Response: Yes.

d. Why should this Committee—or the American people—have confidence in your ability to approach the lifetime appointment of circuit court judge with humility, if your former colleagues repeatedly described you as treating those below you poorly?

Response: I am proud of my record and believe it portends a lifetime of continued humble service, consistent with the finest traditions of the judiciary, should I be confirmed.

For more than 20 years, I have been involved in the criminal justice process as a paralegal, a law clerk, a prosecutor, a defense lawyer, and a senior official at DOJ. During that period, I have participated in more cases than I could count and interacted with hundreds, if not thousands, of professionals. I currently help manage an agency with over 100,000 employees. Numerous letters submitted in support of my nomination, all signed by real people, add accurate details and important context about who I am as a person and a lawyer. Those submissions, consistent with the record laid out in my Senate Judiciary Questionnaire, paint a vastly different picture of me than the limited number of inaccurate, exaggerated, and mostly anonymous claims in Mr. Patton's 2018 email.

e. Would you hire someone to work in your chambers who had received *eight* separate complaints regarding their behavior?

Response: If, as here, the complaints at issue were more than 7 years old, largely anonymous, contained numerous transparent ad hominem attacks, lacked verifiable specifics, were levied prior to a period when the individual was later entrusted by the leaders of his office to handle some of the most serious national security matters in the country, and were leaked to the public for political reasons

just prior to a pivotal moment in the applicant's life, then the answer to this question is yes—I would consider hiring such a person.

f. After how many complaints of an employee's behavior would you consider there to be a behavioral problem that needs to be investigated or disciplined?

Response: Please see my response to question 14.e. My answer to this question would depend on the nature and circumstances surrounding the complaints as well as other evidence of the employee's performance.

g. During your confirmation hearing, you testified, "I take constructive criticism seriously." What is a piece of constructive criticism you have received and what steps have you taken to improve yourself?

Response: In response to the 2018 email referenced in this question, one piece of constructive criticism that I received was that I had not invested enough time forming positive personal relationships with defense attorneys that I was interacting with regularly. In response to that constructive criticism, I endeavored to improve my personal relationships with the defense bar, and I believe I was successful in those efforts.

15. 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 proactively coordinate on these matters with all relevant authorities, including the Administrative Office of the Courts and the Chief Judge of the Third 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 15.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 15.a.

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

Response: The judges for whom I clerked.

17. How would you describe your judicial philosophy?

Response: If I am fortunate enough to be confirmed, my judicial philosophy would prioritize judicial independence, neutrality, restraint, and the limits of the authority conferred on the judiciary by Article III of the Constitution. Pursuant to the oath of judges, 28 U.S.C. § 453, and the Canons of Judicial Conduct, I would consider it my obligation to set aside personal and policy views and to help decide what the law is, rather than what it should or ought to be. As part of that process, I would pay particular attention to each feature of the case-and-controversy requirement, and I would faithfully apply binding precedent without hesitation.

18. 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: In addressing such questions if I were fortunate enough to be confirmed, I would faithfully apply the standards set forth in applicable Supreme Court precedent.

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

Response: Yes, as consistent with applicable precedent of the Supreme Court. *See, e.g.*, *Timbs v. Indiana*, 586 U.S. 146, 151 (2019) (addressing whether the Fourteenth Amendment's Due Process Clause incorporates the enumerated protection of the Eighth Amendment's Excessive Fines Clause); *McDonald v. City of Chicago*, 561 U.S. 742, 767 (2010) (same for Second Amendment).

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, using the instruction and types of sources set forth in *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215, 237-40 (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 any applicable precedent of the Supreme Court recognized the right at issue, that would control the analysis. In the absence of any controlling precedent, including from the Third Circuit, I would consult any relevant decisions of other circuits to evaluate 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 factor that the Supreme Court's or Third Circuit's precedents identify as relevant to assessing whether the Constitution protects an asserted right under a theory of substantive due process.

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

Response: The Take Care Clause is located in Article II of the Constitution and provides, in pertinent part, that the President "shall take Care that the Laws be faithfully executed." As a nominee to the Third Circuit, it would not be appropriate for me to address potential remedies in an abstract hypothetical scenario.

20. Is President Trump eligible to be elected President for a third term?

Response: The 22nd Amendment provides that "[n]o person shall be elected to the office of the President more than twice . . . ." As a nominee to the Third Circuit, it would not be appropriate for me to address how this Amendment would apply in an abstract hypothetical scenario. To the extent this question seeks to elicit an answer that could be taken as opining on the broader political or policy debate regarding term limits, or on statements by any political figure, my response, consistent with the positions of prior judicial nominees, is that it would be improper to offer any such comment as a judicial nominee.

21. 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 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.

22. 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 events on January 6, 2021 is a matter of significant political debate and subject to ongoing litigation. *See, e.g.*, *Blassingame, et al. v. Trump*, No. 21 Civ. 858 (D.D.C.). Pardon recipients have also litigated the scope of the pardons in question, which is an issue that I could be required to address as a judge if I am fortunate enough to be confirmed. Thus, as a judicial nominee, it would be inappropriate to address this question.

23. 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: If the expression does not otherwise fall into a category of speech excluded from constitutional protection, the First Amendment generally limits the government's ability to regulate the expression based on the viewpoint it expresses. As a nominee, I do not think that it would be appropriate for me to address how legal rules might apply in an abstract hypothetical scenario.

24. 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 response to question 23.

25. 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: Please see my response to question 23. It would also be inappropriate for me to address this question because similar issues are the subject of ongoing litigation.

26. 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, 453-54 (1972); *Griswold v. Connecticut*, 381 U.S. 479, 485 (1965). I would faithfully apply those and all other binding precedents of the Supreme Court if I am fortunate enough to be confirmed.

27. 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 indicated in response to question 26, 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. Consequently, it would be inappropriate for me to address this question as a nominee.

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

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). However, this question implicates issues that are the subject of ongoing litigation, and it would be inappropriate for me as a nominee to address this abstract hypothetical.

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

Response: The Supreme Court and the Third Circuit have routinely interpreted various constitutional provisions by attempting to discern 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, 604 (2008) (referring to "the examination of a variety of legal and other sources to determine the public understanding of a legal text in the period after its enactment or ratification"); *Lara v. Comm'r Pennsylvania State Police*, 125 F.4th 428, 441 (3d Cir. 2025) (describing historical sources that "shed important light on the meaning of the [Second] Amendment as it was originally understood"). I would faithfully apply relevant binding precedents in matters of constitutional interpretation. However, because this is the type of question that could arise in the Third Circuit if I am fortunate enough to be confirmed, it would be inappropriate for me as a nominee to further address this question.

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

Response: Generally speaking, I would faithfully apply relevant binding precedents in matters of constitutional interpretation.

31. What role does morality play in determining whether a challenged law or regulation is unconstitutional or otherwise illegal?

Response: Judges should not decide cases based on personal views regarding morality.

32. What role, if any, should the practical consequences of a particular ruling play in a judge's rendering of a decision?

Response: There are limited circumstances in which precedent requires consideration of practical consequences of a ruling. Outside of those limited circumstances, judges should

reach decisions based on impartial application of relevant legal standards and without regard to practical consequences of properly carrying out the judicial function.

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

    Response: Judges should not decide cases based on their personal views. However, a judge's personal experiences may inform their commitment to core judicial values, such as independence and impartiality.

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

    Response: Under some circumstances, judges may stay the impact of a court order. It would be inappropriate for me, as a judicial nominee, to opine on whether and to what extent I would elect to do so.

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

       Response: Please see my response to question 34.

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

       Response: If I am fortunate enough to be confirmed, I will address any motions related to contempt and other compliance issues by applying relevant precedent. As a nominee, however, it would be inappropriate for me to comment on this abstract hypothetical scenario.

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

    Response: I would follow the practices and precedents of the Third Circuit with respect to overturning circuit precedent. In the Third Circuit, the court "must usually rule en banc to overturn a precedential decision." *United States v. McLean*, 702 F. App'x 81, 87 n.13 (3d Cir. 2017); *see also* 3rd Cir. I.O.P. 9.1-9.2. Third Circuit panels may also "reevaluate the holding of a prior panel which conflicts with intervening Supreme Court precedent." *Id.* (cleaned up).

36. 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 and my assessment of 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: It would be inappropriate for me, as a nominee, to address policy questions relating to whether to amend Title VII's existing exemption for the federal judiciary. If confirmed, discrimination would have no place in my chambers.

Questions for the Record for Mr. Emil J. Bove III
Submitted by Senator Richard Blumenthal
July 2, 2025

1. You were heavily involved in the Trump Department of Justice's (DOJ or the Department) decision to dismiss the charges against New York City Mayor Eric Adams.

    a. At your nomination hearing, Senator Kennedy asked who at the Department of Justice, beyond Attorney General Bondi, was involved in the decision to issue the February 10, 2025 memorandum ordering the dismissal of the Adams charges. You testified that you were not able to go into the internal deliberations at the Department beyond what was in the public record but, in response to a follow up question from Sen. Kennedy, you did confirm that others at the Department were involved in the decision.

        i. **Prior to the issuance of the February 10, 2025 memorandum, did any official at DOJ advise or recommend that you not direct the dismissal of the charges? If so, who?**

        Response: As a judicial nominee and a member of the New Jersey and New York bars, I am constrained in my ability to address the facts underlying the issuance of the February 10, 2025 memorandum. First, I have an ethical obligation to preserve confidential communications and advice that I may have provided to clients, including at DOJ. *See, e.g.*, N.J. Rule 1.6; N.Y. Rule 1.6. Second, it would be inappropriate for me to disclose legal advice or other confidential information, arguably to the detriment of my clients, in a manner that could be viewed as an effort to advance my personal interest in confirmation. *See, e.g.*, N.J. Rule 1.8(b); N.Y. Rule 1.8(b). Third, efforts to obtain the Executive Branch's confidential information in the context of a confirmation hearing present difficult separation-of-powers questions. Fourth, even the prospect that the Executive Branch's confidential information could be required to be disclosed in the context of a confirmation hearing would undermine the candor and free exchange of ideas that is necessary to the effective operation of the Executive Branch. *See Trump v. United States*, 603 U.S. 593, 612-13 (2024) (describing "the public interest in candid, objective, and even blunt or harsh opinions in Presidential decisionmaking, as well as the need to protect communications between high Government officials and those who advise and assist them in the performance of their manifold duties" (cleaned up)). Numerous nominees have taken the same approach, including Justice Kagan, who explained at her confirmation hearing: "I cannot reveal any kind of internal deliberations of the Department of Justice." Additional examples of similar positions taken by past nominees, who were confirmed, are set forth in Appendix A to my responses to Chairman Grassley's questions for the record.

Therefore, I respectfully decline to disclose internal deliberations regarding this issue.

ii. **Is there written documentation of Attorney General Bondi's order to dismiss the charges? If so, please provide it to the Committee.**

Response: The February 10, 2025 memorandum stated that the directive was "authorized by the Attorney General." To the extent this question seeks information regarding internal deliberations at DOJ, please see my response to question 1.a.i.

b. Sen. Kennedy then asked you if anyone from "anywhere else," other than the Department, was involved in the decision. You paused, and then responded, "No."

i. **Was your testimony that nobody outside the Department was involved in the decision to dismiss the Adams charges "the truth" and "the whole truth," consistent with the oath you took at the outset of the hearing?**

Response: As with all other questions at the hearing, I testified truthfully and to the best of my recollection in response to Senator Kennedy's questions.

c. During my round of questions, I asked you about others with whom you discussed the decision to dismiss the charges. You declined to answer, claiming that you were not able to discuss matters outside the public record. However, you responded to Sen. Kennedy's question concerning persons outside of DOJ involved in the decision to dismiss the charges, which called for information beyond the public record. In light of your willingness to respond to Sen. Kennedy on this exact topic, I now expect full responses to the following questions.

Before you issued the February 10, 2025 memorandum ordering the dismissal of the Adams charges, did you discuss the decision with:

i. **President Trump?**

Response: Please see my response to question 1.a.i.

ii. **Stephen Miller?**

Response: Please see my response to question 1.a.i.

iii. **Anyone else at the White House? If so, who?**

Response: Please see my response to question 1.a.i.

iv. **Attorney General Bondi?**

Response: Please see my responses to question 1.a.i and question 1.a.ii.

v. **Chad Mizelle?**

Response: Please see my response to question 1.a.i.

vi. **Todd Blanche?**

Response: Please see my response to question 1.a.i.

vii. **Anyone else at the Department of Justice? If so, who?**

Response: Please see my response to question 1.a.i.

d. **If you answered yes to any of questions 1(c)(i)-(vii), please describe your discussions.**

Response: Not applicable.

e. **Before you issued the February 10, 2025 memorandum ordering the dismissal of the Adams charges, are you aware of anyone else at the Department of Justice having spoken to anyone at the White House about the decision?**

Response: Please see my response to question 1.a.i.

i. **If so, please describe your understanding of the participants in and content of those discussions.**

Response: Not applicable.

2. **On February 19, 2025, you told the Honorable Judge Dale E. Ho of the U.S. District Court for the Southern District of New York that the decision to drop the case against Mayor Eric Adams was an "exercise of prosecutorial discretion" that was "virtually unreviewable in [the] courtroom." On June 25, 2025, you denied ever saying such—saying "I never made that assertion"—and told me that the decision to drop the case against Mayor Adams was reviewable by the court.**

Response: Respectfully, this question mischaracterizes a critical distinction between my actual argument to Judge Ho on February 19, 2025 that the motion to dismiss the charges against Mayor Adams was "*virtually* unreviewable," which is accurately reflected in the publicly available transcript of that proceeding as quoted above, and my testimony at the confirmation hearing. *See* ECF No. 145 at 23, *United States v. Adams*, No. 24 Cr. 556 (S.D.N.Y.) (describing the motion at the February 19, 2025 hearing as "an exercise of

prosecutorial discretion, [that] is, I think, as your Honor alluded to earlier, *virtually unreviewable* in this courtroom, especially where guided by an Executive Order and direct guidance from the Attorney General" (emphasis added)); *see also id.* at 2 (district court explaining at the beginning of the February 19, 2025 hearing that "a court has very little discretion here").

At the confirmation hearing, Senator Blumenthal asked whether I argued to Judge Ho that DOJ's decision to seek dismissal "was *unreviewable* by the court." I responded, "I don't think that's what I said, Senator, because it's not consistent with" Rule 48 of the Federal Rules of Criminal Procedure. Senator Blumental then asserted, in pertinent part, "[t]hat's what he said about your position that the decision to dismiss these charges was unreviewable . . . ." I responded, "I never made that assertion and the judge granted the motion, Senator." I stand by my testimony at the confirmation hearing, which was truthful and accurate.

a. What is your actual legal position on judicial review of prosecutorial dismissals?

Response: DOJ's legal position regarding the motion to dismiss the charges against Mayor Adams is set forth in a publicly filed brief. *See* ECF No. 160, *United States v. Adams*, No. 24 Cr. 556 (S.D.N.Y. Mar. 7, 2025).

Rule 48(a) of the Federal Rules of Criminal Procedure states, in pertinent part, that "[t]he government may, with leave of court, dismiss an indictment, information, or complaint." The *Adams* brief explained that the government's right to dismiss an indictment prior to trial, as in the case against Mayor Adams, is "virtually absolute." *United States v. Salim*, 2020 WL 2420517, at *1 (S.D.N.Y. 2020); *see also United States v. Garcia-Valenzuela*, 232 F.3d 1003, 1008 (9th Cir. 2000) ("Where a defendant consents to the government's move to dismiss, it is not clear that the district court has any discretion to deny the government's motion.").

i. Do you believe courts have authority to review prosecutorial decisions to dismiss criminal charges?

Response: Please see my response to question 2.a.

ii. Under what circumstances, if any, can a court reject a prosecutor's motion to dismiss?

Response: Please see my response to question 2.a.

iii. Has your understanding of this issue changed between February and June of this year?

Response: No.

b. Regarding the Adams case specifically:

i. Was the dismissal of charges against Mayor Adams subject to judicial review?

Response: Yes. For additional details, please see my response to question 2.a.

ii. If the decision was reviewable, what grounds would justify judicial rejection of your motion?

Response: Please see my response to question 2.a.

iii. You have been nominated to a federal judgeship. What legal standard would you apply in reviewing a similar dismissal motion?

Response: If I am fortunate enough to be confirmed, I would faithfully apply governing legal precedents in the Third Circuit establishing the applicable standard of review for a motion pursuant to Rule 48 of the Federal Rules of Criminal Procedure. To my knowledge, those standards are not materially different from those set forth in the publicly filed brief in the *Adams* case. *See* ECF No. 160, *United States v. Adams*, No. 24 Cr. 556 (S.D.N.Y. Mar. 7, 2025).

The two statements above—to Judge Ho and to me, respectively—are fundamentally incompatible.

Response: Respectfully, the above assertion is not accurate, and the statements are consistent. There is a meaningful difference between a motion being "*virtually* unreviewable," as I argued to Judge Ho, and "unreviewable," which is how my argument was inaccurately described at the confirmation hearing. I endeavored to be as clear as possible about this distinction at the confirmation hearing, but I was not permitted to fully explain my position.

c. Which statement accurately reflects your legal position: the one to Judge Ho or the one to me?

Response: My legal argument at the February 19, 2025 hearing before Judge Ho was legally sound and grounded in governing precedent, and my testimony on this issue at the confirmation hearing was truthful and accurate.

d. If both statements cannot be true, which was incorrect and why did you make it?

Response: My statements on this issue at the February 19, 2025 hearing before Judge Ho and at my confirmation hearing were truthful and accurate.

e. How should the Senate evaluate your credibility given these contradictory sworn statements?

Response: My statements on this issue at the February 19, 2025 hearing before Judge Ho and at my confirmation hearing were consistent. As a result, Senators and other reasonable observers should conclude from this exchange that I am an experienced, effective, and credible attorney who made sound legal arguments to Judge Ho and testified in a precise and accurate manner at my confirmation hearing.

f. As a judge, how would you address situations where parties cite your previous prosecutorial arguments that contradict established legal principles?

Response: I am not aware of instances where I advanced "prosecutorial arguments that contradict established legal principles." In any event, if I am fortunate enough to be confirmed, I would not consider legal arguments that I made as an attorney to be binding or persuasive in resolving matters before the Third Circuit. Instead, I would faithfully apply the Constitution, statutes, regulations, judicial opinions, and other legal authorities to resolve matters that came before me.

g. Do you believe judges should maintain consistent legal positions across similar cases?

Response: Judges should faithfully apply precedent, including precedent regarding the nature and scope of *stare decisis*.

3. On June 24, 2025, Erez Reuveni provided whistleblower disclosures to Congress, the Office of Special Counsel, and the Department of Justice Office of the Inspector General. In those disclosures, Mr. Reuveni—a nearly 15-year veteran of the Department—alleged that you stated DOJ would need to consider telling the courts "fuck you" and ignoring any court orders enjoining removals under the President's then-imminent invocation of the Alien Enemies Act.

a. Did you say that DOJ would need to consider telling the courts "fuck you?"

Response: I do not recall making the statement attributed to me in question 3.a at the March 14, 2025 meeting that is at issue in the whistleblower complaint. Because this question relates to ongoing litigation in *JGG v. Trump*, I am unable to provide further details pursuant to Canon 3(A)(6).

b. Did you say that DOJ would need to consider ignoring court orders?

Response: I do not recall making the statement attributed to me in question 3.b at the March 14, 2025 meeting that is at issue in the whistleblower complaint. Because this question relates to ongoing litigation in *JGG v. Trump*, I am unable to provide further details pursuant to Canon 3(A)(6).

More generally, and as I explained at the confirmation hearing, as a part of the senior leadership at the Department of Justice (DOJ) since January 20, 2025, I have regularly participated in sensitive internal deliberations concerning litigation strategy and legal advice relating to Executive Branch actions and policy. Generally speaking, the substance of those deliberations has often included encouraging DOJ litigators to advocate zealously on behalf of the Executive Branch subject to ethical and legal constraints. However, while I have participated in the provision of legal advice regarding the scope of court orders, I have not advised a DOJ attorney or other government official to violate a court order.

c. Per Mr. Reuveni's whistleblower disclosure, these comments allegedly occurred at a March 14, 2025, meeting attended by yourself, Mr. Reuveni, James McHenry, Paul Perkins, August Flentje, and other attorneys from the Office of Immigration Litigation.

i. Deputy Attorney General Todd Blanche has asserted on X that he was in the March 14, 2025, meeting in which you allegedly suggested the DOJ should consider ignoring court orders. He said "at no time did anyone suggest a court order should not be followed."

1. Was Mr. Blanche at that meeting?

Response: Mr. Blanche has stated publicly that he was at the meeting.

ii. Did anyone else not listed in Mr. Reuveni's disclosure also attend that meeting?

Response: Please see my response to question 1.a.i. In addition, because this question relates to ongoing litigation in *JGG v. Trump*, I am unable to provide further details pursuant to Canon 3(A)(6).

4. In his whistleblower disclosures, Mr. Reuveni repeatedly alleged that DOJ leadership was giving conflicting advice from that given by the Office of Immigration Litigation (OIL) on compliance with the various court orders surrounding the March 2025 removals.

a. On March 15, 2025, the Honorable Judge James Boasberg of the U.S. District Court for the District of Columbia issued a Temporary Restraining Order (TRO) prohibiting the removal of anyone on the basis of the President's Alien Enemies Act proclamation. Mr. Reuveni alleged that you instructed the Department of

Homeland Security (DHS) that it was permissible to deplane individuals on the flights that left the United States before the judge's order had issued on the docket.

i. **Did you instruct DHS it was permissible to deplane those planes that had departed the United States prior to the issuance of a written order?**

Response: Please see my response to question 1.a.i. In addition, because this question relates to ongoing litigation in *JGG v. Trump*, I am unable to provide further details pursuant to Canon 3(A)(6).

ii. **Did you discuss that interpretation with anyone else before contacting DHS?**

Response: Please see my response to question 1.a.i. In addition, because this question relates to ongoing litigation in *JGG v. Trump*, I am unable to provide further details pursuant to Canon 3(A)(6).

1. **If so, who and what were the contents of those discussions?**

Response: Please see my response to question 1.a.i. In addition, because this question relates to ongoing litigation in *JGG v. Trump*, I am unable to provide further details pursuant to Canon 3(A)(6).

iii. **Who made the final decision to adopt that interpretive position?**

Response: Please see my response to question 1.a.i. In addition, because this question relates to ongoing litigation in *JGG v. Trump*, I am unable to provide further details pursuant to Canon 3(A)(6).

iv. **Please describe your reasoning.**

Response: Please see my response to question 1.a.i. DOJ's position regarding compliance with Judge Boasberg's orders is set forth in a publicly filed brief, which Mr. Reuveni signed. *See* ECF No. 58 at 13, *JGG v. Trump*, No. 25 Civ. 766 (D.D.C. Mar. 25, 2025) ("[T]he Government has complied with the Court's orders."). However, because this question relates to ongoing litigation in *JGG v. Trump*, I am unable to provide further details pursuant to Canon 3(A)(6).

b. On March 28, 2025, the Honorable Judge Brian Murphy of the U.S. District Court for the District of Massachusetts issued a nationwide TRO prohibiting the removal of three named plaintiffs and any individual subject to a final order of removal to a country not named in that order of removal.

i. Mr. Reuveni alleged that, as he was attempting to ensure the government complied with the order, he learned that DHS was instructed not to issue guidance to its officers on how to comply with the order.

1. **Were you involved in the decision to stop DHS from issuing guidance? If so, please describe your involvement.**

   Response: I provided legal advice and guidance in connection with *DVD v. DHS*. As I explained at my confirmation hearing, I am hewing to the line drawn by past nominees by identifying in general terms matters that I have worked on without getting into specifics about particular topics.

   To the extent this question seeks additional details, please see my response to question 1.a.i and, because this question relates to ongoing litigation in *DVD v. DHS*, I am unable to provide further details pursuant to Canon 3(A)(6).

2. **Who else was involved in that decision?**

   Response: Please see my response to question 4.b.i.1.

ii. Mr. Reuveni alleged that, in his perception, DHS had received inconsistent guidance from DOJ on the scope of the injunction. Specifically, he alleged DOJ leadership argued that the injunction only applied to the three named plaintiffs while OIL believed—correctly, at the time—that it applied nationwide.

1. **Were you involved in the DOJ's interpretation of the March 28, 2025 court order? If so, please describe your involvement.**

   Response: Please see my response to question 4.b.i.1

   a. **Do you believe that the order applied only to the named plaintiffs? Did you put forth this argument in March 2025? Please detail your reasoning.**

      Response: Please see my response to question 4.b.i.1.

2. **Who else was involved in the DOJ's interpretation of the order?**

   Response: Please see my response to question 4.b.i.1.

iii. Mr. Reuveni also alleged that he was told to stop emailing counsel at various agencies to determine whether the government had violated the order, and instead speak on the phone.

1. **Were you aware that Mr. Reuveni was speaking to agency counsels about potential violations of the order?**

   Response: Please see my response to question 4.b.i.1.

2. **Did you tell Mr. Reuveni to stop contacting agency attorneys via email?**

   Response: Please see my response to question 4.b.i.1.

   a. **If so, when did you do so and what did you say?**

      Response: Please see my response to question 4.b.i.1.

3. **Did you instruct anyone else to tell Mr. Reuveni to stop contacting agency attorneys via email?**

   Response: Please see my response to question 4.b.i.1.

   a. **If so, when did you do so, who did you speak with, and what did you say?**

      Response: Please see my response to question 4.b.i.1.

5. In 2021, you served as the co-chief of the National Security and International Narcotics Unit at the U.S. Attorney's Office for the Southern District of New York. In that role, you were involved with the investigation and prosecution of cases arising from the January 6, 2021, attack on the U.S. Capitol.

   a. **What was your role in the January 6 investigations and/or prosecutions?**

      Response: By the time of the events on January 6, 2021, I was one of the co-chiefs of SDNY's national security unit.

      i. **How many cases did you supervise?**

         Response: I do not recall.

      ii. **How many cases did you directly work on?**

         Response: I do not recall directly working on any cases relating to events on January 6, 2021, other than in my capacity as a supervisor.

b. In how many January 6 cases did you authorize search warrants?

Response: I do not recall.

6. Public reporting indicates that Robert Leider, Chief Counsel of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), wanted to maintain ATF's classification of "forced reset triggers" as machine guns. Forced reset triggers permit semiautomatic weapons to fire more rapidly, effectively turning them into automatic weapons. This Administration reportedly wanted to reverse the classification, but Mr. Leider agreed with experienced, career ATF lawyers that the devices are dangerous and the classification should stand. According to reporting, you were also briefed on forced reset triggers and the legal challenge to their classification as machine guns.

a. What is your opinion on the dangerousness of forced reset triggers?

Response: I participated in legal advice and deliberations relating to litigation concerning forced reset triggers. For the reasons set forth in my response to question 1.a.i, I must respectfully decline to disclose details of that advice and deliberations. As I explained at my confirmation hearing, I am hewing to the line drawn by past nominees by identifying in general terms matters that I have worked on without getting into specifics about particular topics.

Moreover, because this question implicates an issue that could come before me as a judge if I am fortunate enough to be confirmed, it would be inappropriate for me, as a nominee, to respond. To the extent this question seeks information regarding my views on public policy issues, consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a nominee, to take a position.

b. Do you believe the classification should stand?

Response: Please see my response to question 6.a.

On May 16, 2025, the Department of Justice announced it was settling the litigation challenging the classification. Under the terms of the settlement, forced reset triggers will remain legal so long as their manufacturer, Rare Breed Triggers, refrains from creating similar devices for pistols and enforces its patents to prevent copycats.

c. Were you involved in the decision to settle the litigation?

Response: Please see my response to question 6.a.

i. If so, please describe your involvement.

Response: Please see my response to question 6.a.

d. Who else was involved in the decision to settle the litigation?

Response: Please see my response to question 6.a.

e. To your knowledge, did anyone at DOJ speak to anyone in the White House about the decision to settle? If so, who?

Response: Please see my response to question 6.a.

Current White House Counsel David Warrington represented Rare Breed Triggers in its lawsuit against ATF challenging the classification.

f. Did you ever speak to Mr. Warrington about the forced reset trigger case? If so, when? What did you discuss?

Response: Please see my response to question 6.a.

i. Did you ever speak to anyone else in the White House Counsel's office about the forced reset trigger case? If so, when? What did you discuss?

Response: Please see my response to question 6.a.

g. Did you speak with Mr. Warrington about your nomination to the federal bench?

Response: I addressed the selection process that led to my nomination in question 26 of the Senate Judiciary Questionnaire.

i. If so, when?

Response: Please see my response to question 6.g.

h. Did you speak with anyone else in the White House Counsel's office about your nomination to the federal bench?

Response: Please see my response to question 6.g.

i. If so, when?

Response: Please see my response to question 6.g.

7. Stephen Miller serves as the White House Deputy Chief of Staff.

a. How often do you speak to Mr. Miller?

Response: Please see my response to question 1.a.i.

b. When did you most recently speak to Mr. Miller?

Response: Please see my response to question 1.a.i.

c. Has Mr. Miller ever directed or requested DOJ to open an investigation?

Response: Please see my response to question 1.a.i.

i. If so, when and which cases?

Response: Please see my response to question 1.a.i.

d. Has Mr. Miller ever directed or requested DOJ to take actions other than opening an investigation?

Response: Please see my response to question 1.a.i.

i. If so, when and what actions?

Response: Please see my response to question 1.a.i.

e. Have you ever refused a directive or request from Mr. Miller?

Response: Please see my response to question 1.a.i.

i. If so, when? Please describe the directive or request.

Response: Please see my response to question 1.a.i.

f. Did you speak to Mr. Miller about the January 6 pardons?

Response: Please see my response to question 1.a.i.

i. If so, when? What did you speak about?

Response: Please see my response to question 1.a.i.

g. Did you speak to Mr. Miller about prosecutors or FBI agents involved in the January 6 cases?

Response: Please see my response to question 1.a.i.

i. If so, when? What did you speak about?

Response: Please see my response to question 1.a.i.

8. **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: As I explained in my Senate Judiciary Questionnaire, if I am confirmed, I would refer to 28 U.S.C. § 455, the Code of Conduct for United States Judges, any guidance provided by the Chief Judge of the Third Circuit and the Administrative Office for the United States Courts, and any other applicable laws, rules, and practices governing conflicts of interest. In situations that present actual conflicts of interest based on my current or prior positions at the Department of Justice, I would recuse myself from any cases in which I was personally involved as a prosecutor or supervisor. In situations involving potential conflicts of interest, I would disclose all relevant information to the parties, allow the parties to be heard, and then rule on any recusal motion based upon the application of all relevant authorities and guidance. Beyond that, it would be inappropriate for me to prejudge any hypothetical recusal motion.

   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 8.

   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 8.

   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 8.

   d. **In light of your prior representation, if confirmed, will you commit to recusing yourself from cases about which President Trump has expressed a personal opinion.**

      Response: Please see my response to question 8.

9. **If confirmed, do 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.

a. **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 9.

b. **If confirmed, do 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 9.

c. **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 9.

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

    Response: Yes.

    a. **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 9.

    b. **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 9.

    c. **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 9.

11. 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 TROs 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: If I am fortunate enough to be confirmed, I would faithfully apply binding precedent on this and all other issues. *See, e.g.*, *Bessette v. W.B. Conkey Co.*, 194 U.S. 324, 326-27 (1904). Because this question implicates an issue that could come before me as a judge if I am fortunate enough to be confirmed, it would be inappropriate for me, as a nominee, to respond. To the extent this question seeks information regarding my views on public policy issues, consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a nominee, to take a position.

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

Response: The Supreme Court has 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). If I am fortunate enough to be confirmed, I would faithfully apply binding precedent on this and all other issues. Because this question implicates an issue that could come before me as a judge if I am fortunate enough to be confirmed, it would be inappropriate for me, as a nominee, to respond. To the extent this question seeks information regarding my views on public policy issues, consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a nominee, to take a position.

12. 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, subject to the rules and practices of the Third Circuit, including with respect to procedures for decisions by panels and the en banc court.

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

Response: Generally speaking, yes, and most usually in the context of motion practice by litigants seeking particular relief.

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

Response: This issue typically arises in the context of an application for relief by a party or some other litigant. In that setting, it is my understanding that federal courts typically seek to ensure compliance with court orders through sanctions, civil and criminal contempt procedures, and by requiring that parties file status reports and make court appearances to explain compliance efforts and progress.

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 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. If the Supreme Court issues an order upon the conclusion of appellate review, that order is to be followed.

With respect to potential exceptions to that rule, 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); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 Iowa L. Rev. 1267, 1326 (1996) (constitutional error "so clear that it is not open to rational question"); *see also* 17 Corpus Juris Secundum Contempt §§ 56-65 (discussing contempt defenses); Josh Blackman, *The Department of Justice's 'Longstanding' General Practice of Intracircuit Nonacquiescence*, The Volokh Conspiracy (May 16, 2025). Some litigants and jurists have drawn a distinction between a court's binding "judgment[]" and its "statements in opinions." *Camreta v. Greene*, 563 U.S. 692, 704 (2011).

Certain interlocutory orders might be immediately appealable only via the avenue of a contempt finding, in which case defying the order would arguably be the exclusive path to appellate review. *See, e.g.*, *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) ("Another long-recognized option is for a

party to defy a disclosure order and incur court-imposed sanctions."); *In re Grand Jury*, 705 F.3d 133, 142 (3d Cir. 2012). In *Maness v. Meyers*, 419 U.S. 449, 465-66 (1975), the Supreme Court addressed "whether in a civil proceeding a lawyer may be held in contempt for counseling a witness in good faith to refuse to produce court-ordered materials on the ground that the materials may tend to incriminate the witness in another proceeding." *Id.* at 465. Based on the record before it, the Court held that the lawyer could "not be penalized even though his advice caused the witness to disobey the court's order." The Court explained that "[t]he privilege against compelled self-incrimination would be drained of its meaning if counsel, being lawfully present, as here, could be penalized for advising his client in good faith to assert it." *Id.* at 465-66 (footnote omitted).

Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to provide an answer that categorically predetermines the validity of potential legal arguments for or against adhering to court orders. If any such issues came before me as a judge, I would resolve those issues through careful consideration and application of the parties' arguments and the governing law and precedents.

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

Response: I have not had occasion to study these questions exhaustively. Generally speaking, if there is a lower-court order that binds a party, the normal course is for the party to follow the order and seek appellate review if the party disagrees with the outcome. If the Supreme Court issues an order upon the conclusion of appellate review, that order is to be followed.

Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to provide an answer that categorically predetermines the validity of potential legal arguments for or against adhering to court orders. If any such issues came before me, I would commit to resolving them through the judicial process through careful consideration and application of the parties' arguments and the governing law and precedents.

d. What would make a court order unlawful?

Response: Although it is not feasible to provide an exhaustive list here, a court order could be unlawful if the issuing court lacked jurisdiction or committed a reversible error when interpreting the law or adjudicating issues of fact.

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 12.c.

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

Response: Please see my responses to question 12.b and question 12.c.

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

Response: No.

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
Questions for the Record
Emil J. Bove III
Nominee to the U.S. Court of Appeals for the Third Circuit

1. At your confirmation hearing, you were asked about a February 23, 2025 *Politico* article titled "Before he became Trump's bulldog at DOJ, Emil Bove was nearly demoted for bellicose management style." This article reported that as a co-chief of SDNY's Terrorism and International Narcotics Unit ("TIN"), you "quickly garnered a reputation as a manager who was sharply critical of the people who worked for [you] and unable to control [your] anger." The article further reported that your "conduct was 'abusive,' according to one former member of the unit" and that "[i]n 2020 or early 2021, the executive committee of the U.S. attorney's office opened a formal inquiry into [your] management style. They interviewed prosecutors who worked for [you] about [your] behavior, and they decided that [you] should be removed from [your] role as a supervisor." You confirmed at your hearing that you were familiar with this article and confirmed the substance of the quotes above.

   a. The *Politico* article about your conduct as a manager further reported that you "pleaded with [your] bosses to allow [you] to remain in [your] job and pledged that [you] would commit to improving [your] behavior." When asked about this reporting at your hearing, you stated, "that characterization is not accurate Senator."

      i. Describe what occurred at the meeting where you were presented with the executive committee's decision and/or recommendation to remove you from your position as TIN co-chief.

      Response: I am familiar with this *Politico* article. I respectfully disagree with the assertion above that I "confirmed the substance of the quotes" from that article. I did not do so. If I had been permitted to provide complete responses at the confirmation hearing, I would have explained further that I do not agree with the accuracy of the article's characterizations or the underlying ad hominem attacks by anonymous sources.

      In approximately 2021, I met with the U.S. Attorney in person. To the best of my recollection, no one else was in the meeting. According to *Politico*, the U.S. Attorney declined to comment for the article. Thus, the article appears to rely on attenuated hearsay from anonymous sources who claim to have "worked or interacted with" me during my career at the U.S. Attorney's Office.

      In the meeting, the U.S. Attorney made me aware of a recommendation by others that I no longer serve as a supervisor of the national security unit. I was provided with few, if any, details regarding the process that led to that

recommendation or the concerns that were raised. I asked the U.S. Attorney to reconsider that recommendation and explained the bases for my request, including the unprecedented challenges associated with managing prosecutors in remote environments during the COVID-19 pandemic. The U.S. Attorney ultimately agreed with my position, and I continued to serve as a supervisor until I left the Office.

ii. Explain what about the characterization that you "pleaded" to keep your job and "pledged" to improve your behavior is not accurate.

Response: Please see my response to question 1.a.i.

b. When asked the follow-up question, "So you did not change your behavior at all, or did you?" you replied, "Senator, I'm not perfect, and so when I get constructive criticism, I absolutely take account of that and try to be better at my job, and I did that in that instance."

i. Describe the "constructive criticism" you received your job as a manager.

Response: I do not recall whether and to what extent the U.S. Attorney conveyed detailed constructive criticism to me in the meeting that I described in response to question 1.a.i. Generally speaking, following that meeting, I understood that it was important to maintain closer personal relationships with people under my supervision despite the fact that we had not gathered together in physical office spaces as a result of the COVID-19 pandemic. I did my best to affirmatively seek out guidance on complex management issues from an experienced supervisor who was serving on the Office's executive staff in 2021. I also did my best to reach out to the prosecutors I was supervising on an individual basis more regularly, and to plan events at which the unit could gather to discuss our work and further develop our cohesiveness as a group.

ii. Describe the actions you took to "be better at [your] job" as a manager in response to this "constructive criticism."

Response: Please see my response to question 1.b.i.

iii. If not included in the response to the preceding question, please describe any anger management, management training, or other classes, in-services, professional development, or other training that you completed (or were asked to but did not complete) in relation to your role as TIN co-chief.

Response: I do not recall being asked to complete any particular training beyond that which was required of all individuals in similar supervisory positions.

c. You added, "But the characterization in that article by anonymous sources from a whisper campaign from SDNY alums is not accurate."

i. Why do you believe that a "whisper campaign" resulted in what you describe as a mischaracterization in this article?

Response: As explained above, the *Politico* article relied on anonymous sources to mischaracterize my extensive public service and diminish my contributions to the safety and national security of this country.

ii. Why do you believe that the "whisper campaign" referenced above is being supported by "SDNY alums"?

Response: The *Politico* article states that the claims are "based on information from 10 people who worked or interacted with Bove at the U.S. attorney's office in Manhattan." The *Politico* article also states, among other things, that the anonymous sources acknowledged that "they were not authorized to discuss the matter."

d. The most accurate way for the Committee to assess any complaints about your management style, the results of the inquiry into your management, and any actions you took or pledged to take in response to that inquiry would be to review your personnel records from your time at SDNY. **Will you agree to obtain a copy of these records and provide them to the Committee for review before the Committee votes on your nomination? If not, why not?**

Response: No. As I stated at my confirmation hearing, I defer to the outcome of negotiations between the Senate Judiciary Committee and the Executive Branch regarding appropriate procedures for considering nominations. To my knowledge, my record has been subject to the same thorough vetting process that other nominees have faced, and I have no reason to believe that records exist beyond what was reviewed during the course of that process.

2. At your confirmation hearing, you were asked about your involvement with the termination of attorneys at the United States Attorney's Office for the District of Columbia ("DC USAO"). You explained that "the attorneys that were terminated were on probationary status."

a. Aside from employees who were terminated, were you otherwise involved in any actual or attempted discipline or demotion of any employee at the DC USAO? If so, please describe each instance in detail but without using the employee's name.

As a judicial nominee and a member of the New Jersey and New York bars, I am constrained in my ability to address this question. First, because certain of the personnel decisions are subject to ongoing litigation, including before the Merit Systems Protection Board, it would be inappropriate for me to comment further on the details of these matters as a judicial nominee. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6). Second, I have an ethical obligation to preserve confidential communications and advice that I may have provided to clients, including at DOJ. *See, e.g.*, N.J. Rule 1.6; N.Y. Rule 1.6. Third, it would be inappropriate for me to disclose legal advice or other confidential information, arguably to the detriment of my clients, in a manner that could be viewed as an effort to advance my personal interest in confirmation. *See, e.g.*, N.J. Rule 1.8(b); N.Y. Rule 1.8(b). Fourth, efforts to obtain the Executive Branch's confidential information in the context of a confirmation hearing present difficult separation-of-powers questions. Fifth, even the prospect that the Executive Branch's confidential information could be required to be disclosed in the context of a confirmation hearing would undermine the candor and free exchange of ideas that is necessary to the effective operation of the Executive Branch. *See Trump v. United States*, 603 U.S. 593, 612-13 (2024) (describing "the public interest in candid, objective, and even blunt or harsh opinions in Presidential decisionmaking, as well as the need to protect communications between high Government officials and those who advise and assist them in the performance of their manifold duties" (cleaned up)). Numerous nominees have taken the same approach, including Justice Kagan, who explained at her confirmation hearing: "I cannot reveal any kind of internal deliberations of the Department of Justice." Additional examples of similar positions taken by past nominees, who were confirmed, are set forth in Appendix A to my responses to Chairman Grassley's questions for the record.

For all of these reasons, I must respectfully decline to further address this question.

b. Did you communicate with Ed Martin about the employment status of or any (actual or alleged) misconduct by any DC USAO employee who was not on probationary status? If so, please describe each instance in detail but without using the employee's name.

Response: Please see my response to question 2.a.

c. Were you otherwise involved with the employment status or any charges of misconduct against any DC USAO employee who was not on probationary status? If so, please describe each instance in detail but without using the employee's name.

Response: Please see my response to question 2.a.

d. Since you were appointed acting Deputy Attorney General, have you directed or requested the termination, demotion, discipline, or other changes of employment status of any non-supervisory attorney (e.g., AUSA, trial attorney, attorney advisor, etc.) in any component of the Department of Justice?

Response: Yes. As the Acting Deputy Attorney General, I issued a publicly available memorandum on January 31, 2025 relating to the terminations of probationary employees at the U.S. Attorney's Office for the District of Columbia. The memorandum explained my understanding that "after President Trump was elected to his second term in Office, the Biden Administration's Justice Department converted these [term] employees to permanent status," which "resulted in the mass, purportedly permanent hiring of a group of AUSAs" that "improperly hindered the ability of Acting U.S. Attorney [Ed] Martin to staff his office in furtherance of his obligation to faithfully implement the agenda that the American people elected President Trump to execute." The memorandum further explained that these "subversive personnel actions" drove my thinking about the termination decisions of these probationary employees.

With respect to details regarding those deliberations, or non-public information relating to other personnel actions, please see my response to question 2.a.

3. On June 4, 2025, the Department of Justice sued Texas, alleging that its provision of in-state tuition to "aliens not lawfully present in the United States" violated 8 U.S.C. § 1623(a) and the Supremacy Clause.

a. Did you have any communications (including but not limited to phone calls, emails, video conference calls, text messages, app-based messages, and in-person meetings) regarding this issue with attorneys in the Office of the Texas Attorney General (including the Texas Attorney General himself) before suit was filed on June 4, 2025? If so, please describe all such communications, including the date, type, and contents of each communication.

Response: Please see my responses to question 1.d and question 2.a.

b. To your knowledge, did any other Department of Justice employees or appointees have any such communications? If so, please describe all such communications, including the date, type, and contents of each communication, as well as when you became aware of each communication.

Response: Please see my response to question 3a.

Nomination of Emil Bove III
Nominee to be U.S. Circuit Judge for the Third Circuit
Submitted July 2, 2025

QUESTIONS FROM SENATOR CORY A. BOOKER

1. As defense counsel for President Trump in the criminal case relating to falsified business records, *People v. Trump*, Ind. No. 71543-23 (N.Y. County Supreme Court), you and your co-counsel, now-Deputy Attorney General Todd Blanche, filed a motion seeking the recusal of the presiding judge. You argued that the judge had a conflict of interest because his daughter worked for a political consulting firm that represented Democrats and thereby "ha[d] a direct financial interest in the[] proceedings" against Trump.[1]

   The motion named the judge's daughter, claimed President Trump was her "political target," and accused her of displaying a "hostility" toward him.[2]

   Response: The introductory language above omits important context regarding President Trump's April 3, 2024 recusal motion. First, prior to the filing of the motion, the judge made a decision to contribute to the public scrutiny on the upcoming trial by conducting an interview with the Associated Press that included extrajudicial statements about how he intended to handle the trial. *See* NYSCEF Doc. No. 5 at 27 ¶ 113, *In re Trump v. Merchan*, No. 2024-2413 (1st Dep't Apr. 10, 2024). Second, also prior to the filing of the April 3, 2024 recusal motion, the judge chose to respond to public scrutiny relating to his daughter and her use of social media through a public statement issued by New York's Office of Court Administration. NYSCEF Doc. No. 5 at 27 ¶ 112, *id.* Third, to the best of my recollection, the recusal motion was filed pursuant to the judge's May 8, 2023 protective order, which required that the prosecutors be permitted to propose redactions to any document President Trump wished to file in the case. NYSCEF Doc. No. 5 at 8 ¶ 33 – 9 ¶ 36. The protective order was so restrictive that the media opposed it too, *see* NYSCEF Doc. No. 5 Ex. 3, and the judge had ruled prior to the filing of the recusal motion that the protective order authorized the court to prohibit submissions from being filed publicly, NYSCEF Doc. No. 5 at 41 ¶ 174. Thus, the motion was only filed publicly after the prosecutors had an opportunity to address whether they thought the motion posed safety risks.

   a. Are you aware that the judge's daughter received credible death threats throughout the trial and that on several occasions she and her family stayed away from their home for their safety?

      Response: No.

   b. Are you aware that the judge's daughter's personal information including her home address was shared online by supporters of President Trump?

[1] Recusal Mot., *People v. Trump*, Ind. No. 71543-23, 2024 WL 2979368 (N.Y. Sup. Ct. Apr. 3, 2024).
[2] *Id.*

Response: No.

c. Did you consider the potential consequences of these public allegations against the judge and his daughter, including potential threats and harassment, when deciding to file the motions to recuse?

Response: Yes. It was never my intention to cause a risk of harm to anyone, and I believed filing the motion was required by my ethical obligation to advocate zealously on behalf of my client. Under the circumstances, which also included the judge's extrajudicial statements regarding his daughter and the upcoming trial, as well as the constitutional rights of President Trump and the public to open court proceedings, I considered any risks to be appropriately mitigated by the judge's existing protective order and the decisions prosecutors made pursuant to the protective order with respect to the motion. *See, e.g.*, *United States v. Thomas*, 905 F.3d 276, 281 (3d Cir. 2018) ("The First Amendment provides a public right of access to criminal trials, other aspects of criminal proceedings such as voir dire, and the records and briefs that are associated with those proceedings." (cleaned up)).

2. The Advisory Committee on Judicial Ethics issued a formal opinion that the judge did not have to recuse himself from the case. The Committee held that "a judge's relatives remain free to engage in their own bona fide independent political activities" and that "the matter currently before the [presiding] judge does not involve either the judge's relative or the relative's business, whether directly or indirectly."[3] Nonetheless, you and Mr. Blanche continued to seek the judge's recusal on the basis of his daughter's purported conflicts.

a. Given the Advisory Committee's opinion, and the judge's denial of the first recusal motion, were the subsequent motions made in good faith? Please explain.

Response: Yes. Each recusal motion was supported by newly discovered evidence not addressed in the judge's prior rulings or the May 4, 2023 opinion from the Advisory Committee on Judicial Ethics.

3. According to data from the U.S. Marshals Service, threats to judges had begun to increase by the time of your representation of Mr. Trump. Judge Esther Salas' son, Daniel Anderl, was murdered by an aggrieved lawyer at their home in 2020. In 2023, there had been threats against more than 400 judges.

Response: As indicated in the June 23, 2025 support letter submitted by Dean Sovolos, I was immediately and deeply concerned about the murder of Judge Salas's son. And that continues to be true today.

a. At the time, did you consider whether any of your statements or actions could result in threats of violence against the judge or his daughter? Why or why not?

[3] *See* Decision on Def.'s Mot. for Recusal at 1, *People of State of New York v. Trump*, Ind. No. 71543-23 (N.Y. Cty. Sup. Ct. Aug. 13, 2024).

Response: Please see my response to question 1.c.

b. Do you believe any of your statements or actions contributed to, or encouraged, any of the threats of violence against the judge or his daughter?

Response: No.

4. The recent increase in political violence is a serious national security issue. On June 14, 2025, Melissa Hortman, a state representative and former speaker of the Minnesota House of Representatives and her husband Mark were fatally shot by a gunman disguised as a police officer. The gunman also shot and seriously wounded John Hoffman, another Democratic Minnesota lawmaker and his wife.[4] Last April, an arsonist set Pennsylvania Governor Shapiro's residence on fire. The U.S. Capitol Police reported a concerning spike in threats against members of Congress in 2024.[5]

a. Do you condemn all political violence, whether directed at Republicans, Democrats, or any other political figures or parties?

Response: Yes.

b. Do you regret any of your statements or actions that could have contributed to the threats of violence against the judge or his daughter?

Response: I am not aware of any such statements or actions, and I believe I represented President Trump and all of my clients in an ethical manner.

c. Given the current circumstances and increase in threats against judges and political figures, would you make the same allegations against the judge and his daughter, repeatedly, as you did during the case?

Response: Please see my answer to question 1.c and question 4.b.

d. Do you apologize to the judge or his daughter if your statements or actions contributed to the threats of violence against them?

Response: I condemn all threats of violence, but I cannot address this hypothetical without knowledge of the alleged circumstances referenced in the question.

5. The NYPD's Threat Assessment and Protection Unit logged 61 threat cases in 2024 against Manhattan District Attorney Alvin Bragg, his family, and employees. Examples of

[4] Alana Wise, *Slain Minnesota lawmaker Melissa Hortman mourned at funeral service,* NPR (June 28, 2025), https://www.npr.org/2025/06/28/g-s1-74962/minnesota-melissa-hortman-funeral-house-speaker.
[5] Andrew Solender, *Threats against members of Congress spiked in 2024*, AXIOS (Feb. 3, 2025), https://www.axios.com/2025/02/03/threats-members-congress-capitol-police-2024.

such threats read: "We will kill you all," "you are dead," "Your life is done," "RIP," and a post disclosing the home address of a DA Office employee?[6]

i. Do you condemn threats of violence directed to Alvin Bragg, his family, and Manhattan DA employees?

Response: Yes.

6. During your tenure in private practice as a Partner of Blanche Law PLLC, you represented President Trump in his personal capacity.

a. How many total hours did you spend on each matter related to President Trump?

Response: I have not studied this issue and do not recall the particulars requested by this question.

b. As a firm client, did President Trump pay your standard billing rate? What rate did he pay?

Response: To the best of my recollection, we typically charged President Trump a discounted rate of $650 per hour for services by myself and Mr. Blanche, and lesser rates for our colleagues at Blanche Law PLLC.

c. As a firm client, did anyone other than President Trump, whether an individual or other entity, pay for your legal services on his behalf? If yes, please provide the amount, the name of the individual or entity, and matter for the payment.

Response: I did not manage invoicing or collections at Blanche Law PLLC, and I am not aware of the particulars requested by this question.

d. Have you received any payments from President Trump unrelated to your work for him as client of the law firm? If yes, please provide the amount and the reason for the payment?

Response: No.

e. Does President Trump, or any affiliated individual or entity, owe your firm for any unpaid bills? If yes, please provide the amount owing and the matter of the unpaid bill.

Response: No.

[6] Ryan J. Reilly, Lisa Rubin and Adam Reiss, *Manhattan DA details wave of threats after Donald Trump's felony convictions*, NBC NEWS (June 21, 2024), https://www.nbcnews.com/politics/donald-trump/manhattan-da-details-wave-threats-donald-trumps-felony-convictions-rcna158340.

7. At any point during your representation of President Trump, did you discuss a role in his Administration with him or any person associated with him? Please describe the nature of the discussion(s), the date(s) of the discussion(s), and identify all individuals who participated in the discussion(s).

   Response: To the best of my recollection, between the November 2024 election and President Trump's announcement of my anticipated DOJ appointment in approximately mid-November 2024, I discussed a potential role in President Trump's Administration with Boris Epshteyn. Generally speaking, these conversations involved discussion of my interest in working at DOJ and my qualifications for positions at DOJ.

8. At any point during your representation of President Trump, did you discuss a potential nomination to a judgeship with him or any person associated with him? Please describe the nature of the discussion(s), the date(s) of the discussion(s), and identify all individuals who participated in the discussion(s).

   Response: No.

9. Did you discuss a potential nomination to a judgeship with President Trump or any person associated with him between November 5, 2024 and January 20, 2025? Please describe the nature of the discussion(s), the date(s) of the discussion(s), and identify all individuals who participated in the discussion(s).

   Response: No.

10. Where you ever promised a nomination to a federal judgeship by President Trump or any person associated with him before you were appointed Acting Deputy Attorney General on January 20, 2025? If yes, please provide the name of the person, the date of the discussion, and the substance of the discussion.

    Response: No.

11. Have you spoken with President Trump about your nomination to serve as federal appellate judge? Please describe the nature of the discussion(s), the date(s) of the discussion(s), and identify all individuals who participated in the discussion(s).

    Response: No.

12. You represented President Trump and other clients in matters where the U.S. Department of Justice was an adverse party.

    a. Have you consulted with career officials at DOJ regarding matters where you previously represented an adverse party, including President Trump? If yes, identify those matters, the advice given, and whether you followed such advice.

Response: As a judicial nominee and a member of the New Jersey and New York bars, I must respectfully decline to disclose non-public facts in response to this question. First, I have an ethical obligation to preserve confidential communications and advice that I may have provided to clients, including at DOJ. *See, e.g.*, N.J. Rule 1.6; N.Y. Rule 1.6. Second, it would be inappropriate for me to disclose legal advice or other confidential information, arguably to the detriment of my clients, in a manner that could be viewed as an effort to advance my personal interest in confirmation. *See, e.g.*, N.J. Rule 1.8(b); N.Y. Rule 1.8(b). Third, efforts to obtain the Executive Branch's confidential information in the context of a confirmation hearing present difficult separation-of-powers questions. Fourth, even the prospect that the Executive Branch's confidential information could be required to be disclosed in the context of a confirmation hearing would undermine the candor and free exchange of ideas that is necessary to the effective operation of the Executive Branch. *See Trump v. United States*, 603 U.S. 593, 612-13 (2024) (describing "the public interest in candid, objective, and even blunt or harsh opinions in Presidential decisionmaking, as well as the need to protect communications between high Government officials and those who advise and assist them in the performance of their manifold duties" (cleaned up)). Numerous nominees have taken the same approach, including Justice Kagan, who explained at her confirmation hearing: "I cannot reveal any kind of internal deliberations of the Department of Justice." Additional examples of similar positions taken by past nominees, who were confirmed, are set forth in Appendix A to my responses to Chairman Grassley's questions for the record.

b. Have you recused yourself from any matters at DOJ relating to your previous client representations, including of President Trump? If yes, identify those matters.

Response: Consistent with the line drawn by past nominees by identifying in general terms matters that they worked on without getting into specifics about particular topics, I am able to disclose that I have not participated in decisions relating to former Special Counsel Jack Smith and his staff, and parties to the following cases: *United States v. Verzaleno*, No. 23 Cr. 323 (D.M.D.), *United States of America v. Account No. XXXX6600 located at Metropolitan Commercial Bank et al.*, No. 22 Civ. 612 (D. Ariz.), *United States v. Ho Wan Kwok*, No. 23 Cr. 118 (S.D.N.Y.), and *United States v. Cobern, et al.*, No. 19 Cr. 120 (D.N.J.).

13. If you are confirmed to the federal bench, do you commit to recusing yourself from any matters involving President Trump?

Response: As I explained in my Senate Judiciary Questionnaire, if I am confirmed, I would refer to 28 U.S.C. § 455, the Code of Conduct for United States Judges, any guidance provided by the Chief Judge of the Third Circuit and the Administrative Office for the United States Courts, and any other applicable laws, rules, and practices governing conflicts of interest. In situations that present actual conflicts of interest based on my current or prior positions at the Department of Justice, I would recuse myself from any cases in which I was personally involved as a prosecutor or supervisor. In situations involving potential conflicts of interest, I would disclose all relevant information to the

parties, allow the parties to be heard, and then rule on any recusal motion based upon the application of all relevant authorities and guidance. Beyond that, it would be inappropriate for me to prejudge any hypothetical recusal motion.

14. If you are confirmed to the federal bench, do you commit to recusing yourself from any matters involving any person involved in the criminal prosecutions of President Trump?

    Response: Please see my answer to question 13.

15. Do you agree that under a prosecutor's heightened duty of candor, a prosecutor should not make a statement of law or fact, or offer evidence to a court that he or she does not reasonably believe to be true?

    Response: Yes.

16. Do you agree that a "prosecutor should seek or file criminal charges only if the prosecutor reasonably believes that the charges are supported by probable cause, that admissible evidence will be sufficient to support conviction beyond a reasonable doubt, and that the decision to charge is in the interests of justice"?

    Response: Yes, I generally agree with the quoted language, which appears to have been excerpted from the ABA's "Prosecution Function" standards.

17. Do you agree that "a prosecutor's office should not file or maintain charges if it believes the defendant is innocent, no matter what the state of the evidence"?

    Response: Please see my answer to question 16.

18. During your nominations hearing, you confirmed to me that you worked on January 6 Capitol riot cases while you were a federal prosecutor in the SDNY.

    a. Please provide a list of all cases relating to the events at the U.S. Capitol on January 6, 2021 ("January 6 Capitol attack") that you worked on and/or supervised at SDNY and describe your role in the case.

       Response: By the time of the events on January 6, 2021, I was one of the co-chiefs of SDNY's national security unit. I do not recall the particular cases I supervised in that capacity relating to events on January 6, 2021.

       i. How many of these cases resulted in a conviction?

          Response: Please see my answer to question 18.a.

    b. For any and all cases relating to the January 6 Capitol attack that you worked on and/or supervised, did you raise any concerns about potential "weaponization" of the prosecutorial powers of the Department of Justice? If yes, to whom and how?

Response: No.

c. For any and all cases relating to the January 6 Capitol attack that you worked on and/or supervised, did you withdraw or otherwise decline to prosecute?

Response: As a supervisor, I do not recall entering a formal appearance in a case relating to events on January 6, 2021, or withdrawing from such a case. Nor do I recall whether and to what extent SDNY was involved in any declinations of cases relating to events on January 6, 2021.

d. For any and all cases relating to the January 6 Capitol attack that you worked on and/or supervised, did you ever approve a prosecution that you did not believe was supported by probable cause? If so, why?

Response: No.

e. For any and all cases relating to the January 6 Capitol attack that you worked on and/or supervised, were you ever aware of a prosecutor making a statement of law or fact to the court that violated the duty of candor or any other ethical obligations? If yes, how did you address this?

Response: No.

f. For any and all cases relating to the January 6 Capitol attack that you worked on and/or supervised, did you ever file or maintain charges in a case related to the January 6 Capitol attack where you believed the defendant was innocent?

Response: As a supervisor at SDNY at the time, I was not responsible for filing or maintaining charges. I am unaware of any prosecutors under my supervision having filed or maintained charges in a case where I believed the defendant was innocent.

g. If you believed a defendant in a case related to the January 6 Capitol attack was innocent, would you have dismissed the charges?

Response: I would never participate, and have never participated, in bringing charges against an individual I believed to be innocent.

h. Did you ever decline to prosecute a case that an AUSA or investigating agency recommended bringing and for what reasons?

Response: Yes, both as a supervisor and a prosecutor. I must respectfully decline to provide the non-public reasons for those decisions for the reasons set forth in my response to question 12.a.

i. Did you ever have concerns about the merits of any prosecutions related to the January 6 Capitol attack, and what were the nature of your concerns? To whom and how did you raise your concerns?

Response: I do not recall having concerns about the merits of prosecutions I supervised. At the time, I did not evaluate the merits of prosecutions I was not responsible for supervising.

j. Did you ever, in your time as a prosecutor in SDNY initiate, prosecute, or supervise a case that you did not believe was meritorious?

Response: No.

19. On January 20, 2025, as one of his first official acts, President Trump issued "full, complete, and unconditional" pardons to individuals convicted of offenses relating to the January 6, 2021 riot at the U.S. Capitol.[7] The President also commuted the sentences of several individuals convicted of offenses relating to the January 6 Capitol attack to time served.

a. Were you one of the highest-ranking officials at the Department of Justice on January 20, 2025?

Response: On January 20, 2025, I was the Acting Deputy Attorney General of the United States.

b. When did you first become aware that President Trump was considering granting these pardons and commutations? Please describe what you knew and how you learned of it and include the names of any individuals from whom you learned this information.

Response: I was aware that President Trump was considering granting pardons and/or commutations relating to events on January 6, 2021, including based on public reporting. However, for the reasons set forth in my response to question 12.a, and also because of ongoing litigation and political debate about events on January 6, 2021, I must respectfully decline to disclose internal deliberations regarding this issue.

c. When did you first become aware that the President was going to issue these pardons? Please describe what you knew and how you learned of it and include the names of any individuals from whom you learned this information.

Response: Please see my response to question 19.b.

[7] *Granting Pardons and Commutations of Sentences for Certain Offenses Relating to the Events At or Near the United States Capitol on January 6, 2021*, THE WHITE HOUSE (Jan. 20, 2025), https://www.whitehouse.gov/presidential-actions/2025/01/granting-pardons-and-commutation-of-sentences-for-certain-offenses-relating-to-the-events-at-or-near-the-united-states-capitol-on-january-6-2021/.

d. Please provide the names of the other individuals who participated in this decision.

Response: Please see my response to question 19.b.

e. What was your involvement in the President's decision to pardon or commute the sentences of individuals convicted of offenses relating to the January 6, 2021 attack on the U.S. Capitol? Please describe specific actions you took related to the pardons and commutations.

Response: Please see my response to question 19.b.

f. Was there an individualized review of each case to determine whether the defendant had acknowledged their wrongdoing or accepted responsibility for their actions? If yes, who conducted the review and when?

Response: Please see my response to question 19.b.

g. Was there an individualized review of each case to determine whether the defendant had demonstrated good conduct after their conviction? If yes, who conducted the review and when?

Response: Please see my response to question 19.b.

h. Did you provide legal advice to the President or any other person associated with the President, directly or indirectly, related to the pardons and commutations generally?

Response: Yes.

i. Did you provide legal advice or an opinion to the President or any other person associated with the President, directly or indirectly, related to the pardons or sentence commutations of any person convicted for an offense related to the January 6 Capitol attack?

Response: Yes.

j. Did you participate in drafting the January 20 Presidential Proclamation announcing the pardons? If yes, please describe your involvement and provide the names of the other individuals who participated in drafting.

Response: I do not recall participating in the drafting of Proclamation 10887.

k. Do you support President Trump's pardons or commutations of January 6 rioters who violently assaulted law enforcement officers? Why?

Response: "To the executive alone is intrusted the power of pardon." *Trump v. United States*, 603 U.S. 593, 608 (2024) (cleaned up). "The President's authority to pardon, in other words, is conclusive and preclusive." *Id.* (cleaned up). Accordingly, as I explained at my confirmation hearing, it would not be appropriate for me as a nominee to comment on President Trump's use of the pardon authority.

20. During your nominations hearing, in response to Ranking Member Durbin, Senator Blumenthal, and others, you asserted that you authorized the termination of prosecutors involved in January 6 Capitol attack prosecutions not because of those prosecutions but "because [you were] concerned about efforts in the prior administration to embed those prosecutors as permanent employees at the U.S. Attorney's Office" in D.C.

    Your testimony about these terminations conflicts with your January 31, 2025 memorandum in which you wrote "President Trump appropriately characterized that work [casework relating to January 6] as having involved 'a grave national injustice that has been perpetrated upon the American people over the last four years.'"[8]

    Response: I respectfully disagree with the allegation above that my testimony at the confirmation hearing "conflicts" with the relevant publicly available memorandum issued on January 31, 2025.

    Question 20 selectively quotes from that memorandum, which quoted President Trump's Proclamation 10887, entitled "Granting Pardons and Commutation of Sentences for Certain Offenses Relating to the Events at or Near the United States Capitol on January 6, 2021." However, the memorandum also explained my understanding that "after President Trump was elected to his second term in Office, the Biden Administration's Justice Department converted these [term] employees to permanent status," which "resulted in the mass, purportedly permanent hiring of a group of AUSAs" that "improperly hindered the ability of Acting U.S. Attorney [Ed] Martin to staff his office in furtherance of his obligation to faithfully implement the agenda that the American people elected President Trump to execute." The memorandum further explained that these "subversive personnel actions" drove my thinking about the termination decisions of these probationary employees.

    a. Is it your position that the prosecution of individuals who were found guilty of offenses related to the January 6 Capitol attack was a "grave national injustice"?

        Response: Please see my response to question 20. In addition, my record makes clear that, as a former prosecutor with almost a decade of experience enforcing criminal laws, I condemn all forms of illegal activity. That is especially true with respect to acts of violence against law enforcement. At the same time, based on a variety of professional experiences, I find overreach and heavy-handed tactics by prosecutors and law enforcement to be equally unacceptable. These concerns are

[8] Mem. from Acting Deputy Attorney General, "Terminations," U.S. DEP'T OF JUSTICE (Jan. 31, 2025), *available at* https://www.documentcloud.org/documents/25512930-bove-memo/.

not mutually exclusive, and publicly available materials suggest that both concerns were implicated by some of the events on January 6, 2021.

i. If yes, please explain the grave national injustice?

Response: Please see my response to question 20 and question 20.a.

ii. If yes, should you be held accountable for your involvement in the prosecution of this "grave national injustice"?

Response: Please see my response to question 20 and question 20.a.

iii. If no, how do you explain your characterization of the prosecutions as a "grave national injustice"? Is it your practice to issue and implement policy that you know is inaccurate or misleading?

Response: Please see my response to question 20 and question 20.a.

21. Your testimony about these terminations also conflicts with statements of former Interim U.S. Attorney for D.C. Ed Martin and Stephanie Hinds, the Director of the Executive Office for U.S. Attorneys who effectuated your order to terminate these prosecutors. Per public reporting, at about 4:45 p.m. on Jan. 31, the prosecutors received a "Dear Colleague" email from Martin that referenced your January 31, 2025 memorandum as providing "direction about some folks leaving our employment."[9] A few hours later, the attorneys received individualized termination letters from Hinds that read:

> This decision is based upon your actions in the prosecution of persons relating to events that occurred at or near the United States Capitol on January 6, 2021. In an Executive Order issued on January 20, 2025, President Trump characterized that work as having involved "a grave national injustice that has been perpetrated upon the American people over the last four years."[10]

Response: I respectfully disagree with the allegation above that my testimony at the confirmation hearing "conflicts" with the sources cited in footnotes 9 and 10. The undated purported email from Mr. Martin cited in footnote 9 does not describe the basis for the "direction" that Mr. Martin referenced "about some folks leaving our employment." The article cited in footnote 9 alleges that Mr. Martin attached my January 31, 2025 memorandum to the purported email. If that is true, then the concerns I described in the memorandum regarding "subversive personnel actions" were incorporated into the purported email.

---

[9] Roger Parloff, *Trump's Petty Purge of 15 Young Jan. 6 Prosecutors*, LAWFARE (Feb. 5, 2025), https://www.lawfaremedia.org/article/trump-s-petty-purge-of-15-young-jan.-6-prosecutors/.

[10] Ltr. from Stephanie M. Hinds, Director, *available at* https://www.documentcloud.org/documents/25512941-termination-letter-with-signature-redacted/.

Consistent with my January 31, 2025 memorandum, the undated purported letter from Ms. Hinds cited in footnote 10 states: "Based on your hiring as an Assistant United States Attorney in the District of Columbia in the weeks leading up to President Trump's second inauguration, your hiring has hindered the ability of Acting U.S. Attorney Martin to staff his office . . . ." This explanation is consistent with the memorandum and my testimony at the confirmation hearing.

a. Did Martin and Hinds act without your knowledge in terminating the attorneys?

Response: Please see my response to question 12.a and question 20.a.

b. Did they act in contradiction to your orders for termination or consistent with your orders for termination?

Response: Please see my response to question 12.a and question 20.a.

22. According to public reports, you clashed with Robert Leider, the Chief Counsel at the Bureau of Alcohol, Tobacco, Firearms and Explosives, about his view that "forced reset triggers," a device that allows semiautomatic weapons to fire more rapidly, were appropriately classified as machine guns.[11] Mr. Leider had visited the FBI shooting range to shoot one of these weapons and concluded that their classification as machine guns was appropriate.

a. Did you have a meeting with Mr. Leider in which he advocated against settling the case for the classification of forced reset triggers as machine guns?

Response: I participated in deliberations relating to litigation over forced reset triggers. For the reasons set forth in my response to question 12.a, I am not at liberty to disclose internal deliberations regarding this issue.

b. Did Mr. Leider raise concerns about public safety as a consideration in urging DOJ not to settle the case?

Response: Please see my response to question 22.a.

c. Did you offer a view on public safety as related to forced reset triggers? What was your view of the issue?

Response: Please see my response to question 22.a.

d. Were you aware that White House Counsel David Warrington represented the National Association for Gun Rights in its suit against DOJ challenging its

[11] Perry Stein, *ATF's pro-gun lawyer opposed Trump administration's latest move on guns*, THE WASHINGTON POST (May 22, 2025), https://www.washingtonpost.com/national-security/2025/05/22/trigger-devices-atf-justice-bove-machine-guns/.

classification of forced reset triggers as machine guns? When did you become aware of this?

Response: Please see my response to question 22.a.

e. Were you aware that White House Counsel David Warrington had represented Rare Breed Triggers, a forced reset trigger manufacturer in a lawsuit filed against it by DOJ? When did you become aware of this?

Response: Please see my response to question 22.a.

f. Did Mr. Warrington ever communicate about the case against Rare Breed Triggers, either directly or indirectly, with you or anyone else at the Department of Justice at any point before or since you joined the Administration? If yes, describe the nature the communication, the date(s) or general of the discussion(s), and identify all individuals who participated in the discussion(s).

Response: Please see my response to question 22.a.

g. Did Mr. Warrington ever provide an opinion or view of the case against Rare Breed Triggers, either directly or indirectly, with you or anyone else at the Department of Justice at any point before or since you joined the Administration? If yes, describe your understanding of his opinion or view, the date(s) or general of the discussion(s), and identify all individuals who participated in the discussion(s).

Response: Please see my response to question 22.a.

23. Have you ever discussed the Rare Breed Triggers case, or forced reset triggers generally, with Mr. Warrington? If yes, describe the nature of the discussion(s), the date(s) of the discussion(s), and identify all individuals who participated in the discussion(s).

Response: Please see my response to question 22.a.

24. The DOJ's settlement with Rare Breed Triggers was announced on May 17, 2025. Did you ever discuss or communicate about the settlement, directly or indirectly, with anyone in the White House leading up to or after the settlement? Please provide the names of the individuals, date(s) of the discussion or communication, and nature of the discussions or communications.

Response: Please see my response to question 22.a.

25. When did you first discuss a potential nomination to the federal bench with Mr. Warrington, or anyone else in the White House Counsel's Office?

Response: As I explained in response to question 26 of the Senate Judiciary Questionnaire, in approximately mid-March 2025.

26. Do you agree with the following statement, "The prosecutor generally serves the public and not any particular government agency, law enforcement officer or unit, witness or victim." Why or why not?

    Response: While I agree that prosecutors "generally serve[] the public," I disagree with the quoted language to the extent it suggests that line DOJ prosecutors do not serve "any particular government agency." The quoted language appears to have been excerpted from the ABA's "Prosecution Function" standards, which are not specific to DOJ. ABA Prosecution Function standard 3-1.3 adds that "[t]he public's interests and views should be determined by the chief prosecutor and designated assistants in the jurisdiction." In the federal system, the "chief prosecutor" is the Attorney General, and the "designated assistants" include U.S. Attorneys and Assistant Attorneys General. *See* 28 U.S.C. §§ 503, 519, 541. The Attorney General explained in her February 12, 2025 memorandum, entitled "General Policy Regarding Zealous Advocacy on Behalf of the United States," that "[t]he discretion afforded Department attorneys . . . does not include latitude to substitute personal political views or judgments for those that prevailed in the election."

27. Do you agree with the following statement, "The prosecutor should not make a statement of fact or law, or offer evidence, that the prosecutor does not reasonably believe to be true, to a court, lawyer, witness, or third party, except for lawfully authorized investigative purposes." Why or why not?

    Response: Yes. Generally speaking, I believe this statement to be consistent with prosecutors' ethical obligations and the Justice Manual.

28. Do you expect all DOJ attorneys to adhere to these rules?

    Response: Respectfully, I am unable to answer this question because it is not clear to me which "rules" are being referenced.

29. 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."[12]

[12] 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.

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.

30. At your hearing on before the Senate Judiciary Committee on June 25, 2025, Senator Booker entered into the record a letter that he and six other members of the Committee had sent to the Southern District of New York requesting information about complaints against you during your time with the office. That letter includes the text of an email that had been sent to the office by a group of attorneys, warning your supervisors about your unethical conduct.

a. Please confirm whether you are familiar with the email in question.

Response: To the extent the language above refers to a 2018 email from David Patton to Lisa Zornberg and Joan Loughnane, yes, I am familiar with the email.

b. Is it correct that you were made aware of the email in 2018 at the time it was sent to your supervisors?

Response: Yes.

c. Did you share the content of the email within your office with colleagues?

Response: I recall sharing the content of the email with a limited number of people I considered close friends and mentors.

d. Did you display the email in your office?

Response: Yes, between approximately 2018 and 2019, I hung the email on the wall next to my computer in order to remind myself of lessons learned through mentorship from my supervisors and to motivate myself as I continued to pursue a promotion to become a supervisor of the national security unit, which I obtained in 2019.

31. At your hearing you "categorically" rejected the allegations made by the attorneys in the email. You claim that because the attorneys never made a formal complaint, their assertions are false.

Response: To clarify, as explained further below, my position is that one of the reasons Senators should conclude that the allegations in the email are not accurate is that, to my knowledge, none of the attorneys at issue made an ethics complaint to bar authorities or sought relief on behalf of their clients in connection with the alleged events the email purports to describe.

a. Notwithstanding the rules of professional responsibility, is it your position that in every instance in which a prosecutor has engaged in unethical conduct, there will be a formal complaint by other attorneys who are aware of it?

   Response: Pursuant to Rule 8.3(a) of New York's Rules of Professional Conduct, "[a] lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation." In my view, the inaccurate claims in the 2018 email—if true, which they are not—would have implicated a reporting obligation under this Rule. As I explained at the confirmation hearing, I am unaware of any such reports.

b. Is the absence of formal misconduct complaint against prosecutor therefore conclusive evidence that the prosecutor has never engaged in unethical conduct?

   Response: This question mischaracterizes my testimony at the confirmation hearing. Please see my response to question 31.a. Moreover, as I explained at my confirmation hearing, the inaccurate claims in the 2018 email would have also triggered separate zealous-advocacy obligations on the part of the defense attorneys in question to seek judicial relief on behalf of their clients in the cases I was responsible for prosecuting. *See, e.g.*, Cmt. 1, N.Y. Rule 1.3 ("A lawyer must also act with commitment and dedication to the interests of the client and in advocacy upon the client's behalf."). In that setting, the failure of a defense lawyer to file a motion seeking relief based on such allegations—if they were true, which they are not—could have constitutional implications under the Sixth Amendment's right to effective counsel. I am not aware of any such motions or related adverse judicial findings.

c. As a supervisor, did you take allegations like this about the conduct of attorneys under your supervision seriously? Or would you only have addressed it if there had been a complaint filed with the New York Bar?

   Response: My answer to the first question is yes.

d. The email was sent in 2018 before you began representing Mr. Trump. Would you agree that the attorneys were not sending the email to prevent your confirmation to the federal bench?

Response: Yes. The manifest purpose of the 2018 email was to try to prevent me from becoming a supervisor at the U.S. Attorney's Office for the Southern District of New York. As I explained at the confirmation hearing, I did my best to find constructive criticism in that document and to improve as a prosecutor, and I was promoted to the supervisory position in question the following year.

e. Having served as a defense attorney, you agree that it is a defense attorney's obligation to advocate zealously for their client.

Response: Yes, as set forth in applicable ethics rules and opinions applying those rules.

i. Do you agree that this includes making strategic decisions about what steps to during the course of a case?

Response: The allocation of decision-making between the attorney and the client is governed by applicable ethics rules and opinions applying those rules. *See, e.g.*, New York Rule 1.2 (scope of representation and allocation of authority between client and lawyer).

ii. Do you agree that this includes considering whether a potential action could harm the client or otherwise have an adverse effect on the client's case?

Response: Generally speaking, I agree that this is a relevant consideration. *See, e.g.*, New York Rule 1.2(e).

32. On April 22, the Department of Justice's (DOJ) Office of Justice Programs (OJP) notified hundreds of grant recipients across the country, without warning, that their funding had been terminated, effective immediately.

Response: According to public reporting, the notices referenced in question 32 also made clear that grantees had 30 days to appeal the decision, and some grants were restored in connection with that process. *See, e.g.*, https://www.reuters.com/data/us-department-justice-grants-targeted-termination-2025-04-24.

a. Were you aware of the grant terminations before April 22?

Response: Subject to my answer to question 32.b, and consistent with the line drawn by past nominees by identifying in general terms matters that they worked on without getting into specifics about particular topics, I must respectfully decline to disclose internal deliberations regarding this issue for the reasons set forth in question 12.a.

b. Were you involved in the decision-making process for the grant terminations?

Response: Yes.

c. What role did you play in the grant termination process?

Response: Please see my response to question 32.a.

d. Who was responsible for making those decisions?

Response: Please see my response to question 32.a.

e. Were there individuals from DOGE involved in this process? Please provide their names and their roles.

Response: Please see my response to question 32.a.

f. Did you review any of the grants that the Department was considering terminating?

Response: Please see my response to question 32.a.

g. What is your understanding of how the grants that were terminated were chosen? What were the criteria?

Response: Please see my response to question 32.a.

h. Do you agree that all grantees should be subject to the same criteria for receiving grants? If not, why?

Response: Please see my response to question 32.a.

i. Do you agree that the Department should not discriminate against any of similarly situated grantees that provide similar services or have similar priorities? If not, why not? Please provide examples.

Response: Generally speaking, yes.

j. Have you ever, directly or indirectly, communicated with or provided an opinion about grant funding to other agencies? Please provide the date(s), nature of the communication, and person(s) involved in the communication.

Response: To the best of my recollection, no.

k. Have you ever, directly or indirectly, communicated with or provided an opinion about grant funding to the Department of Health and Human Services? Please provide the date(s), nature of the communication, and person(s) involved in the communication.

Response: To the best of my recollection, no.

l. Would it be inappropriate for an Administration official to influence a decision to award or terminate a grant in which they have a personal interest?

Response: As a judicial nominee, it would be inappropriate for me to opine on abstract hypotheticals, which could implicate facts or issues that could come before me should I be confirmed.

33. 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.[13]

a. What do you attribute this to?

Response: The sources of that disparity, and the best means to address it, continue to be a topic of public policy debate. It would therefore be inappropriate for me, as a judicial nominee, to comment further, other than to express the belief that it would be incumbent on me as a judge to be aware of the possibility of any and all types of bias and to endeavor to minimize them as consistent with my judicial duties.

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

34. 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.[14]

    a. What do you attribute this to?

    Response: Please see my response to question 33.a.

35. 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: It is the obligation of all participants in the criminal justice system, especially judges, to be aware of the possibility of any and all types of bias and to endeavor to minimize them as consistent with their judicial duties.

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

    Response: Nobody should be excluded from the opportunity to serve as a judge based on a protected characteristic. I believe there is value in sharing experiences with persons of varying backgrounds, life experiences, and viewpoints. Being an effective lawyer depends upon one's ability to effectively understand and articulate a diverse range of methodological and legal viewpoints. If I am fortunate enough to be confirmed, I would look forward to learning from and building relationships with my colleagues on the Third Circuit and other courts.

37. 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. 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 explain why you have not previously disclosed them.

    Response: I do not recall having published written material or made public statements regarding the topics set forth below.

    a. Abortion
    b. Affirmative action
    c. Contraceptives or birth control
    d. Gender-affirming care

[14] 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.

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

38. 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 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. If the Supreme Court issues an order upon the conclusion of appellate review, that order is to be followed.

With respect to potential exceptions to that rule, 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); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 Iowa L. Rev. 1267, 1326 (1996) (constitutional error "so clear that it is not open to rational question"); *see also* 17 Corpus Juris Secundum Contempt §§ 56-65 (discussing contempt defenses); Josh Blackman, *The Department of Justice's 'Longstanding' General Practice of Intracircuit Nonacquiescence*, The Volokh Conspiracy (May 16, 2025). Some litigants and jurists have drawn a distinction between a court's binding "judgment[]" and its "statements in opinions." *Camreta v. Greene*, 563 U.S. 692, 704 (2011).

Certain interlocutory orders might be immediately appealable only via the avenue of a contempt finding, in which case defying the order would arguably be the exclusive path to appellate review. *See, e.g.*, *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) ("Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions."); *In re Grand Jury*, 705 F.3d 133, 142 (3d Cir. 2012). In *Maness v. Meyers*, 419 U.S. 449, 465-66 (1975), the Supreme Court addressed "whether in a civil proceeding a lawyer may be held in contempt for counseling a witness in good faith to refuse to produce court-ordered materials on the ground that the materials may tend to incriminate the witness in another proceeding." *Id.* at 465. Based on the record before it, the Court held that the lawyer could "not be penalized even though his advice caused the witness to disobey the court's order." The Court explained that "[t]he privilege against compelled self-incrimination would be drained of its meaning if

counsel, being lawfully present, as here, could be penalized for advising his client in good faith to assert it." *Id.* at 465-66 (footnote omitted).

Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to provide an answer that categorically predetermines the validity of potential legal arguments for or against adhering to court orders. If any such issues came before me as a judge, I would resolve those issues through careful consideration and application of the parties' arguments and the governing law and precedents.

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: If confirmed, I would most often be reviewing orders issued by federal district court judges to ensure that they are consistent with the law in both scope and substance. It is my understanding that federal courts typically seek to ensure compliance with court orders through sanctions and civil and criminal contempt procedures, as well as by requiring that parties file status reports and make court appearances to explain compliance efforts and progress. The Supreme Court, for its part, has cautioned that "the contempt power" is something that "uniquely is 'liable to abuse,'" *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 831 (1994), and that "care is needed to avoid arbitrary or oppressive conclusions," *Bloom v. Illinois*, 391 U.S. 194, 202 (1968) (citation omitted). I would apply these instructions and any other governing law and precedents to assess whether any allegations of noncompliance were correct and whether any recognized defenses apply.

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 answers to question 38 and question 38.a.

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

Response: As this question relates to issues that are the subject of litigation in the courts, and that could come before me if I am confirmed, it would not be appropriate for me to opine on this issue.

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

Response: Please see my response to question 39.

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

Response: Please see my response to question 39.

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

Response: The Supreme Court has interpreted the Supremacy Clause to establish that principle. *See, e.g.*, *Haaland v. Brackeen*, 599 U.S. 255, 287 (2023).

a. The Emergency Medical Treatment and Labor Act (EMTALA) is a federal law enacted in 1986 that requires hospitals to provide emergency care, including emergency abortion care. Do you agree that EMTALA, as a federal law, supersedes conflicting state laws?

Response: The nature and scope of EMTALA's preemptive effect is a matter subject to ongoing litigation, and this is the type of issue that could come before me if I am confirmed, so it would be improper for me as a judicial nominee to comment on this question.

43. 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). As this question relates to issues that are the subject of litigation in the courts, and that could come before me if I am confirmed, it would not be appropriate for me to opine on this issue.

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

Response: The Supreme Court has a body of precedents addressing the constitutional limits on legislative delegation of rulemaking authority. *See Gundy v. United States*, 588 U.S. 128, 135-36 (2019). As this question relates to issues that are the subject of litigation in the courts, and that could come before me if I am confirmed, it would not be appropriate for me to opine on this issue.

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

Response: *Brown* is a landmark ruling that promotes racial equality and rejected the manifestly unjust and incorrect separate-but-equal rule of *Plessy v. Ferguson*, 163 U.S. 537 (1896). Consistent with the position of prior judicial nominees, I consider *Brown* to be one of the limited exceptions to the general principle, explained by Justice Kagan and others, that a judicial nominee generally should not "grade" or give a "thumbs-up or thumbs-down" to particular precedents of the Supreme Court. 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.

46. 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, and all other Supreme Court precedents, if confirmed to be a judge on the Third Circuit.

47. 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, and all other Supreme Court precedents, if confirmed to be a judge on the Third Circuit.

48. 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, and all other Supreme Court precedents, if confirmed to be a judge on the Third Circuit.

49. 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 positions 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 answer to question 49. I do not recall the particulars of the outcome of the electoral vote in 2020.

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 answer to question 49 and question 49.a.

50. The 22nd Amendment says that "no person shall be elected to the office of the President more than twice."[15]

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: I do not recall the particulars of the outcome of the electoral vote in 2016.

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

Response: 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: I do not recall the particulars of the outcome of the electoral vote in 2024.

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

Response: As a nominee to the Third Circuit, it would not be appropriate for me to address how this Amendment would apply in an abstract hypothetical scenario. To the extent this question seeks to elicit an answer that could be taken as opining on the broader political or policy debate regarding term limits, or on statements by any political figure, my response, consistent with the positions of prior judicial nominees, is that it would be improper to offer any such comment as a judicial nominee.

51. 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?

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

Response: Yes, as part of guidance about how the vast majority of judicial nominees have handled those types of questions.

52. 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: I have not had unofficial communications with Mr. Musk. For the reasons set forth in my response to question 12.a, I must respectfully decline to disclose any official internal communications with Mr. Musk.

53. 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: I have not had unofficial communications with any member of DOGE. For the reasons set forth in my response to question 12.a, I must respectfully decline to disclose any official internal communications with DOGE.

54. 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.

55. 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.

56. 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 as to all.

57. 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.

58. 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.

Response: Not applicable.

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: I affirm that, since becoming a legal adult, I have left each place of employment voluntarily and not subject to the request or suggestion of any employer.

59. 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.

60. 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."[16]

a. Do you agree with the above statement?

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

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

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: I am in communication with Mike Davis, Will Chamberlain, and Josh Hammer. We have communicated regarding my experience and qualifications, judicial philosophy, and my confirmation hearing.

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

Response: Please see my response to question 60.b.

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

Response: Please see my response to question 60.b.

61. 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. Who?

Response: Not applicable.

b. What advice did they give?

Response: Not applicable.

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

Response: Not applicable.

62. 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 response to question 60.b.

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

Response: Please see my response to question 26 of the Senate Judiciary Questionnaire.

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

Response: I worked with DOJ personnel to draft answers to these questions and solicit feedback from DOJ's Office of Legal Policy and the White House Counsel's Office. Based on that feedback, I finalized my answers and authorized them to be submitted to this Committee.

Questions for the Record from Senator Alex Padilla
Senate Judiciary Committee
"Nominations"

June 25, 2025

Questions for Mr. Bove:

1. **At your hearing, you reported that you did not remember how many attorneys from the Department of Justice Capitol Siege Section were fired after you sent your memo on staffing to the Department of Justice and the Federal Bureau of Investigation. I informed you that I would be following up for the exact number for the record. How many Capitol Siege Section attorneys were fired after you sent, in your capacity as Acting Deputy Attorney General, the memorandum dated January 31, 2025?**

   Response: I am not aware of the number.

2. **How many individuals involved in the January 6 siege against the Capitol did President Donald Trump pardon?**

   Response: I am not aware of the exact number. Moreover, the characterization of the events on January 6, 2021 is a matter of significant political debate and subject to ongoing litigation. *See, e.g.*, *Blassingame, et al. v. Trump*, No. 21 Civ. 858 (D.D.C.). Pardon recipients have also litigated the scope of the pardons in question, which is an issue that I could be required to address as a judge if I am fortunate enough to be confirmed. Thus, as a judicial nominee, it would be inappropriate for me to provide a response that could be seen as taking a position on these political and policy issues.

   a. **How many of those individuals had prior criminal records?**

      Response: Please see my response to question 2.

   b. **How many of those individuals have subsequently been arrested or charged with criminal charges unrelated to the events of January 6?**

      Response: Please see my response to question 2.

3. **Please identify any and all situations where it is permissible for a party, including the Executive Branch or one of its officers, departments, or agencies, to defy a court order.**

   Response: Generally speaking, if there is a lower-court order that binds a party, the normal course is for the party to follow the order and seek appellate review if the party disagrees with the outcome. If the Supreme Court issues an order upon the conclusion of appellate review, that order is to be followed.

With respect to potential exceptions to that rule, 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); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 Iowa L. Rev. 1267, 1326 (1996) (constitutional error "so clear that it is not open to rational question"); *see also* 17 Corpus Juris Secundum Contempt §§ 56-65 (discussing contempt defenses); Josh Blackman, *The Department of Justice's 'Longstanding' General Practice of Intracircuit Nonacquiescence*, The Volokh Conspiracy (May 16, 2025). Some litigants and jurists have drawn a distinction between a court's binding "judgment[]" and its "statements in opinions." *Camreta v. Greene*, 563 U.S. 692, 704 (2011).

Certain interlocutory orders might be immediately appealable only via the avenue of a contempt finding, in which case defying the order would arguably be the exclusive path to appellate review. *See, e.g.*, *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) ("Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions."); *In re Grand Jury*, 705 F.3d 133, 142 (3d Cir. 2012). In *Maness v. Meyers*, 419 U.S. 449, 465-66 (1975), the Supreme Court addressed "whether in a civil proceeding a lawyer may be held in contempt for counseling a witness in good faith to refuse to produce court-ordered materials on the ground that the materials may tend to incriminate the witness in another proceeding." *Id.* at 465. Based on the record before it, the Court held that the lawyer could "not be penalized even though his advice caused the witness to disobey the court's order." The Court explained that "[t]he privilege against compelled self-incrimination would be drained of its meaning if counsel, being lawfully present, as here, could be penalized for advising his client in good faith to assert it." *Id.* at 465-66 (footnote omitted).

Because a case involving these issues could come before me if I were confirmed as a judge, it would be inappropriate to provide an answer that categorically pre-determines the validity of potential legal arguments for or against adhering to court orders. If any such issues came before me, I would commit to resolving them through the judicial process through careful consideration and application of the parties' arguments and the governing law and precedents.

4. **Please identify any and all situations in which you would advise a client to ignore or defy a court order.**

Response: Please see my response to question 3.

5. **Is it appropriate for the President of the United States to threaten or harass a judge when he disagrees with the outcome of a case over which that judge is presiding, or disagrees with aspects of a judge's decision or order?**

Response: I do not think it is appropriate to threaten or harass anyone, but I am also sensitive to the First Amendment implications of limiting the ability of government officials, including officials from the Legislative Branch, to comment on matters of

public concern relating to the judiciary. *See, e.g.*, *Mills v. Alabama*, 384 U.S. 214, 218 (1966) ("Whatever differences may exist about interpretations of the First Amendment, there is practically universal agreement that a major purpose of that Amendment was to protect the free discussion of governmental affairs.").

6. **In the process of applying to become a judge, did you have any conversations with President Trump, a member of his staff, or a member of an outside group about policy or personal positions or beliefs you would have on the bench, or decisions you would make on the bench?**

   Response: No.

Senator Peter Welch
Senate Judiciary Committee
Written Questions for Emil Bove
Hearing on "Nominations"
Wednesday, June 25, 2025

1. How many appellate briefs have you filed?

   Response: I have participated in the filing of approximately 32 appellate briefs.

2. How many times have you argued before an appellate court?

   Response: I have argued approximately 11 appeals before federal and state appellate courts.

3. President Trump announced your nomination on May 28, 2025.

   a. Prior to this date, did you discuss your nomination with President Trump? If so, when did that occur?

      Response: No.

   b. Prior to this date, did you discuss your nomination with anyone at the White House? If so, when did that occur?

      Response: I addressed the process that preceded my nomination in question 26 of the Senate Judiciary Questionnaire.

   c. Did you meet with President Trump prior to his announcement? If so, where did you meet, who was present, and what was discussed?

      Response: Please see my responses to question 3.a and question 3.b.

4. The government requested a dismissal of the indictment against New York City Mayor Eric Adams in *United States v. Adams*, 24 CR 556 (S.D.N.Y.) on February 14, 2025. You personally signed the request.

   a. Who made the final decision about whether the government would request a dismissal of the indictment?

      Response: My publicly available memorandum to the Acting U.S. Attorney for the Southern District of New York, dated February 10, 2025, stated that the directive was authorized by the Attorney General.

As a judicial nominee and a member of the New Jersey and New York bars, I must respectfully decline to disclose non-public facts in response to this question. First, I have an ethical obligation to preserve confidential communications and advice that I may have provided to clients, including at DOJ. *See, e.g.*, N.J. Rule 1.6; N.Y. Rule 1.6. Second, it would be inappropriate for me to disclose legal advice or other confidential information, arguably to the detriment of my clients, in a manner that could be viewed as an effort to advance my personal interest in confirmation. *See, e.g.*, N.J. Rule 1.8(b); N.Y. Rule 1.8(b). Third, efforts to obtain the Executive Branch's confidential information in the context of a confirmation hearing present difficult separation-of-powers questions. Fourth, even the prospect that the Executive Branch's confidential information could be required to be disclosed in the context of a confirmation hearing would undermine the candor and free exchange of ideas that is necessary to the effective operation of the Executive Branch. *See Trump v. United States*, 603 U.S. 593, 612-13 (2024) (describing "the public interest in candid, objective, and even blunt or harsh opinions in Presidential decisionmaking, as well as the need to protect communications between high Government officials and those who advise and assist them in the performance of their manifold duties" (cleaned up)). Numerous nominees have taken the same approach, including Justice Kagan, who explained at her confirmation hearing: "I cannot reveal any kind of internal deliberations of the Department of Justice." Additional examples of similar positions taken by past nominees, who were confirmed, are set forth in Appendix A to my responses to Chairman Grassley's questions for the record.

b. Did you discuss the dismissal with Tom Homan prior to filing it?

Response: Please see my response to question 4.a.

c. Who at the White House did you consult with regarding the decision to dismiss the indictment prior to filing it?

Response: Please see my response to question 4.a.

d. Did you discuss the dismissal with Todd Blanche before February 12, 2025?

Response: Please see my response to question 4.a.

e. You stated during your nominations hearing that "policy reasons made it appropriate to dismiss the charges." What are those policy reasons?

Response: I was referring to the policy reasons set forth in the publicly available brief filed in the case. *See* ECF No. 160, *United States v. Adams*, No. 24 Cr. 556 (S.D.N.Y. Mar. 7, 2025).

f. You also stated during your nominations hearing that the indictment against Mayor Adams would impact his ability to serve as mayor and campaign for reelection. In your view, under what circumstances is it appropriate to bring criminal charges against an elected official?

Response: Because this question implicates an issue that could come before me as a judge if I am fortunate enough to be confirmed, it would be inappropriate for me, as a nominee, to respond. To the extent this question seeks information regarding my views on public policy issues, consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a nominee, to take a position.

5. According to public reporting, the Department of Justice opened an investigation into a protest at Barnard College that occurred on February 26, 2025.

a. Did you order the opening of that investigation?

Response: To the extent this question seeks non-public information, please see my response to question 4.a. However, there is a publicly available affidavit filed by an FBI agent that discloses some details of the investigation. *See* ECF No. 17-1, *In re Application of the New York Times Company in the matter of Columbia University Apartheid Divest*, No. 25 Mc. 218 (S.D.N.Y June 16, 2025).

According to the affidavit, during the incident on February 26, 2025, a Barnard College employee was assaulted. *Id.* ¶ 14. On March 5, 2025, "a group of masked individuals entered a multi-purpose building at Barnard College," and members of the group "distributed paper leaflets purporting to be authored by the Hamas Media Office which purported to articulate reasons why the October 7, 2023 mass killings of Israeli civilians were morally justified." *Id.* Hamas is a designated foreign terrorist organization under U.S. law, and members of Hamas are charged with terrorism offenses in the United States in relation to the attack on October 7, 2023. *See, e.g.*, *United States v. Haniyeh, et al.*, No. 24 Mag. 438 (S.D.N.Y.).

A group called "Columbia University Apartheid Divest," or "CUAD," took credit for organizing and carrying out the February 26 and March 5, 2025 incidents at Barnard College. *See* ECF No. 17-1 ¶ 14, *In re Application of the New York Times Company in the matter of Columbia University Apartheid Divest*, No. 25 Mc. 218 (S.D.N.Y June 16, 2025). In October 2024, CUAD issued an "open letter"

supporting a Columbia student who had been disciplined "for stating, during an Instagram live stream, that 'Zionists don't deserve to live' and 'Be grateful that I'm not just going out and murdering Zionists.'" *Id.* ¶ 12. On March 14, 2025, a social media account associated with CUAD posted a picture of the residence of the interim President of Columbia University. *Id.* ¶¶ 8-9. The picture showed red spray paint on the residence, which appears to have been intended to look like blood, along with a black inverted triangle that, according to the affidavit, "is a symbol that has been used by militants affiliated with the terrorist organization Hamas in the ongoing Israel-Hamas conflict to designate homes and buildings as targets for attack." *Id.* ¶ 10.

b. Did you issue orders or give directions to the Civil Rights Division during the course of that investigation? If so, what orders or directions did you give?

Response: Please see my response to question 4.a.

c. Did you issue orders or give directions to the Federal Bureau of Investigation (FBI) during the course of that investigation? If so, what orders or directions did you give?

Response: Please see my response to question 4.a.

d. Did you order or direct FBI agents from the Joint Terrorism Task Force to put on raid jackets and stand in formation during the course of that investigation?

Response: Please see my response to question 4.a.

6. According to public reporting, in 2018 an email was sent to supervisors at the U.S. Attorney's Office for the Southern District of New York regarding complaints about you.

a. Have you read that email?

Response: Yes.

b. Did you hang a copy of that email in your office?

Response: Yes, between approximately 2018 and 2019, I hung the email on the wall next to my computer in order to remind myself of lessons learned through mentorship from my supervisors and to motivate myself as I continued to pursue a promotion to become a supervisor of the national security unit, which I obtained in 2019.

c. Due to this complaint, or others, were you asked or ordered to complete any trainings?

Response: I do not recall being asked to complete any particular training beyond that which was required of all individuals in similar supervisory positions.

d. Do you know Joan Loughnane? If so, please describe your relationship with Ms. Loughnane?

Response: Yes. Ms. Loughnane is a professional colleague.

e. Do you know Lisa Zornberg? If so, please describe your relationship with Ms. Zornberg?

Response: Yes. Ms. Zornberg is a professional colleague.

7. Please describe your involvement in the firing of prosecutors from the U.S. Attorney's Office for the District of Columbia who were assigned cases involving the insurrection on January 6, 2021.

Response: I issued a publicly available memorandum on January 31, 2025 relating to the terminations of the probationary employees at the U.S. Attorney's Office for the District of Columbia. The memorandum explained my understanding that "after President Trump was elected to his second term in Office, the Biden Administration's Justice Department converted these employees to permanent status," which "resulted in the mass, purportedly permanent hiring of a group of AUSAs" that "improperly hindered the ability of Acting U.S. Attorney [Ed] Martin to staff his office in furtherance of his obligation to faithfully implement the agenda that the American people elected President Trump to execute." The memorandum further explained that these "subversive personnel actions" drove my thinking about the termination decisions of these probationary employees.

To the extent this question seeks non-public information, please see my response to question 4.a. In addition, because certain of the personnel decisions at issue are the subject of ongoing litigation, it would be inappropriate for me, as a judicial nominee, to comment further.

a. How many of these prosecutors were fired?

Response: I do not know the exact number.

b. Did you personally approve these terminations?

Response: Please see my response to question 7.

8. Please describe your involvement in the development of a list of agents at the FBI who were assigned cases involving the insurrection on January 6, 2021.

   Response: I issued a memorandum on January 31, 2025, which is publicly available, requesting the list of FBI employees who were assigned to investigations and prosecutions relating to events on January 6, 2021. The memorandum stated that the requested list would be used to "commence a review process to determinate whether any additional personnel actions are necessary." Consistent with that explanation, the Acting Director of the FBI indicated in a February 4,2025 email that he was "confident" that DOJ would "undertake a full and fair review of the data we provided" and that "the FBI does not consider anyone's identification on one of these lists as an indicator of misconduct." ECF No. 11-2, *Does 1-9 v. DOJ*, No. 25 Civ. 325 (D.D.C. Feb. 24, 2025). The following day, I sent a private email to the FBI that reiterated the point: "No FBI employee who simply followed orders and carried out their duties in an ethical manner with respect to January 6 investigations is at risk of termination or other penalties." ECF No. 11-3, *id.* In light of the ongoing litigation, DOJ "has not commenced this [review] process" or "accessed the unclassified list of names that prior acting FBI leadership claimed to have sent." ECF No. 45-1 at 4, *id.*

   To the extent this question seeks non-public information, please see my response to question 4.a. In addition, because this issue is the subject of ongoing litigation, it would be inappropriate for me, as a judicial nominee, to comment further. *See Does 1-9 v. DOJ*, No. 25 Civ. 325 (D.D.C.); *FBI Agents Ass'n v. DOJ*, No. 25 Civ. 328 (D.D.C.)

   a. Have any adverse employment actions been taken against agents on this list related to their investigation of the insurrection on January 6, 2021?

      Response: Please see my response to question 8.

Questions for the Record
Sen. Adam Schiff (CA)

Emil J. Bove III, Nominee to the United States Court of Appeals for the Third Circuit

1. You have been the subject of multiple allegations and reports of professional misconduct. In 1975, the Department of Justice established the Office of Professional Responsibility (OPR) in direct response to the "ethical abuses and serious misconduct by senior Department officials during the Watergate scandal."[1] OPR's primary mission is to ensure that Department attorneys perform their duties in accordance with the high professional standards expected of the nation's principal law enforcement agency. Public reporting suggests that this Administration made the unprecedented step of replacing career leadership at OPR. Currently, the OPR website does not list any supervisor for that office.

    a. **As Acting Deputy Attorney General or Principal Associate Deputy Attorney General, did you ever supervise or otherwise oversee the Office of Professional Responsibility?**

    Response: As Acting Deputy Attorney General, I advised and assisted the Attorney General in providing overall supervision and direction to all organizational units within the Department of Justice, including the Office of Professional Responsibility. I play a similar role as Principal Associate Deputy Attorney General by assisting the Deputy Attorney General in these efforts.

    b. **What was your involvement, if any, in the removal of the career leadership at OPR?**

    Response: According to public reports, Jeffrey Ragsdale, the former director and chief counsel within the Office of Professional Responsibility, was removed from his position by Deputy Attorney General Todd Blanche on March 7, 2025. I participated in that decision.

    As I explained at my confirmation hearing, I am hewing to the line drawn by past nominees by identifying in general terms matters that I have worked on without getting into specifics about particular topics. As a judicial nominee and a member of the New Jersey and New York bars, I was and am constrained in my ability to provide further details. First, I have an ethical obligation to preserve confidential communications and advice that I may have provided to clients, including at DOJ.

[1] About OPR, U.S. Department of Justice Office of Professional Responsibility, available at www.justice.gov/opr/about-opr (last accessed on June 30, 2025).

See, e.g., N.J. Rule 1.6; N.Y. Rule 1.6. Second, it would be inappropriate for me to disclose legal advice or other confidential information, arguably to the detriment of my clients, in a manner that could be viewed as an effort to advance my personal interest in confirmation. *See, e.g.*, N.J. Rule 1.8(b); N.Y. Rule 1.8(b). Third, efforts to obtain the Executive Branch's confidential information in the context of a confirmation hearing present difficult separation-of-powers questions. Fourth, even the prospect that the Executive Branch's confidential information could be required to be disclosed in the context of a confirmation hearing would undermine the candor and free exchange of ideas that is necessary to the effective operation of the Executive Branch. *See Trump v. United States*, 603 U.S. 593, 612-13 (2024) (describing "the public interest in candid, objective, and even blunt or harsh opinions in Presidential decisionmaking, as well as the need to protect communications between high Government officials and those who advise and assist them in the performance of their manifold duties" (cleaned up)). Numerous nominees have taken the same approach, including Justice Kagan, who explained at her confirmation hearing: "I cannot reveal any kind of internal deliberations of the Department of Justice." Additional examples of similar positions taken by past nominees, who were confirmed, are set forth in Appendix A to my responses to Chairman Grassley's questions for the record.

c. Please identify any political appointee who supervises OPR or advises senior leadership regarding OPR investigations or policies, along with their qualifications or expertise in investigating government misconduct with integrity, objectivity, and independence.

Response: The Office of Professional Responsibility reports to the Office of the Deputy Attorney General. The Office of the Deputy Attorney General is led by Deputy Attorney General Todd Blanche. As the Principal Associate Deputy Attorney General, I assist Mr. Blanche in managing the Office of the Deputy Attorney General and in supervising the components and units that report to the Office of the Deputy Attorney General. Our qualifications are set forth in Senate Judiciary Questionnaires submitted in connection with our respective confirmation processes.

d. Please identify the current senior career attorney or attorneys with supervisory responsibility at OPR.

Response: Suzanne Drouet.

2. During your confirmation hearing, Senator Hirono quoted from a *Politico* article which reported on an internal investigation that recommended your demotion from a supervisory role in the U.S. Attorney's office for the Southern District of New York. She asked you: "You are aware of this inquiry and their recommendation?" You responded: "As well as the fact that I was not removed."

   a. To clarify, yes or no, did the internal investigation referenced by Sen. Hirono recommend your demotion?

   Response: In approximately 2021, in a meeting with the U.S. Attorney, I was made aware of a recommendation by others to the U.S. Attorney that I no longer serve as a supervisor of the national security unit. I asked the U.S. Attorney to reconsider that recommendation and explained the bases for my request, including the unprecedented challenges associated with managing prosecutors in remote environments during the COVID-19 pandemic. The U.S. Attorney ultimately agreed with my position, and I continued to serve as a supervisor until I left the Office.

   b. Why did the internal investigation referenced by Sen. Hirono conclude that you should be demoted?

   Response: I was provided with few, if any, details regarding the process that led to that recommendation or the concerns that were raised.

   c. You further stated that "I'm not perfect and so when I get constructive criticism . . . I absolutely take account of that and try and be better at my job, and I did that in that instance." Please specify what constructive criticism you have received from colleagues which led you to change your behavior.

   Response: I do not recall whether and to what extent the U.S. Attorney conveyed detailed constructive criticism to me in the meeting that I described in response to question 2.a. Generally speaking, following that meeting, I understood that it was important to maintain closer personal relationships with people under my supervision despite the fact that we had not gathered together in physical office spaces as a result of the COVID-19 pandemic. I did my best to affirmatively seek out guidance on complex management issues from an experienced supervisor who was serving on the Office's executive staff in 2021. I also did my best to reach out to the prosecutors under my supervision on an individual basis more regularly, and to plan events at which the unit could gather to discuss our work and further develop our cohesiveness as a group.

3. In the prosecution of Ali Sadr Hashemi Nejad, District Court Judge Alison Nathan ordered prosecutors under your supervision to file a letter explaining whether they informed defense counsel that an exculpatory document produced mid-trial had not been previously disclosed. The prosecutors filed a letter which stated they informed defense counsel that the document was a "newly marked exhibit." This was misleading, which you and your Co-Chief subsequently admitted. Documents show that after the letter was filed, your Co-Chief texted you: "Yeah we lied in that letter."

   Response: The above-referenced letter was filed by a prosecutor assigned to the case at approximately 10:00 p.m. on Sunday, March 8, 2020. My Co-Chief sent the above-referenced text message the following morning after she read the final version of the letter that the AUSA filed.

   a. Yes or no, is it true that about 10 minutes before the letter was filed, you spoke on the phone with the line prosecutor in charge of filing the letter?

   Response: My Co-Chief and I spoke "briefly" to the prosecutor at approximately 9:52 p.m. on Sunday, March 8, 2020. *See United States v. Nejad*, 521 F. Supp. 3d 438, 448 (S.D.N.Y. 2021). The call "lasted less than two minutes," and the district court "[took] the Unit Chiefs at their word that during their call with [the prosecutor] . . . they did not instruct him to change the sentence in question." *Id.* at 449.

   b. Yes or no, is it true that, before that phone call, the first draft of the letter contained the factually accurate response that ""[t]he Government did not specifically identify that [the document] had not previously been produced in discovery?"

   Response: Yes.

   c. Yes or no, is it also true that, minutes after the phone call, a different draft was filed with the Court which substituted that factually true statement with the misleading statement that "the document was a 'newly marked exhibit'"?

   Response: Yes. The district court concluded, however that "upon review of the prosecutor declarations and email correspondence from the night of March 8, the Court does not find that any of the prosecutors [who I supervised] intentionally misled the Court in the 10:00 p.m. letter." *Nejad*, 521 F. Supp. 3d at 449. As noted above, the court also took me and my Co-Chief "at their word that during their call

with [the prosecutor]" prior to his filing of the letter, we "did not instruct him to change the sentence in question." *Id.*

d. Yes or no, is it true that the prosecutor who filed that letter later declared that he "recalls opening [the] draft during the call and making changes that he understood to reflect the input from the unit chiefs?"

Response: Yes. However, in October 2020, I swore under penalty of perjury that I did not authorize the deletion of the accurate statement in the earlier draft of the letter on the night of March 8, 2020, or suggest the inaccurate statement in the version of the letter that the prosecutor filed at approximately 10:00 p.m. that night. *See, e.g.*, ECF No. 400-1 ¶ 5.e, *United States v. Nejad*, No. 18 Cr. 224 (S.D.N.Y. Feb. 22, 2021). I stand by that representation, which is consistent with the district court's relevant findings as described in response to question 3.c.

4. In connection with the *Ali Sadr* case, you sent several troubling texts and emails which were revealed by a federal court's fact-finding inquiry into your team's alleged violations of a defendant's constitutional rights, specifically their *Brady* right to exculpatory evidence.

a. On March 8, 2020, did you text message your colleague Shawn Crowley: "we will get cocaine for you bud?"

Response: Yes, I sent that message to my Co-Chief in an effort at levity as we uncovered significant problems relating to the work of our supervisees. Around the time of that message, our concerns were so significant that we had instructed the prosecution team to review the entire case file, which I expected would take most or all of the night on March 8, 2020, in an effort to ensure that the prosecutors had identified all problems with their handling of their discovery obligations. Thus, my attempt at humor in that text message understated how seriously we were taking the emerging discovery problems on the night of March 8, 2020.

b. On March 8, 2020, did you refer to subordinates as "clowns" in a text message to Shawn Crowley?

Response: I believe the text message referenced in this question stated, in pertinent part, "send the draft clowns." I sent that message at approximately 9:40 p.m. on March 8, 2020. The message reflected my frustration that I was not provided with adequate time to review the draft of the March 8, 2020 letter at issue in question 3. *See* ECF No. 400-1 ¶ 23, *United States v. Nejad*, No. 18 Cr. 224 (S.D.N.Y. Feb. 22, 2021).

c. On March 8, 2020, did you email members of the prosecution team that "we are going to smash these guys," referring to the defense, after defense counsel identified potential *Brady* violations to the Court?

Response: Yes. I sent that email at approximately 11:28 p.m. on March 8, 2020. At the time, I lacked complete information about the extent of the discovery problem. Based on what I knew at that point, while I believed there were some serious problems with the discovery disclosures, I did not think that the defense would be able to persuade the district court that the relief they were seeking was appropriate. Therefore, based on the information that was available to me at that time, I sent that message in an effort to comfort the trial team and motivate them to continue working hard to resolve the pending issues.

d. On March 8, 2020, did you characterize a statement from a prosecutor on your team to defense counsel as a "[f]lat lie" in a message to your colleague Shawn Crowley?

Response: I sent the above-referenced text message after 11:00 p.m. on the night of March 8, 2020, after I learned for the first time—from a defense submission to the court rather than the prosecutors assigned to the case—of arguably misleading language used by the assigned prosecutors in earlier communications with defense counsel. *See* ECF No. 400-1 ¶¶ 30-31, *United States v. Nejad*, No. 18 Cr. 224 (S.D.N.Y. Feb. 22, 2021). The text message reflected my frustration that the communication had not been shown to me while earlier submissions to the court were being prepared. As one of the Co-Chiefs of the unit, as soon as complete information was provided to me regarding the gravity of the discovery problem at issue, I did everything in my power to prevent further vague or misleading explanations from being provided to the court and defense counsel. This culminated in the extraordinary step, which I supported and believe was appropriate, of moving to dismiss the charges notwithstanding the jury's guilty verdict.

5. **During your confirmation hearing, you generally denied the allegations in the Whistleblower Protection Act disclosures made by Department of Justice attorney Erez Reuveni to the Senate Judiciary Committee. Now that you have had additional time to carefully review the complaint and any supporting documentation within the custody and control of the Department of Justice, please specifically identify which facts in the complaint you are stating are incorrect, false or misleading.**

Response: For the reasons set forth in my response to question 1.b, I am constrained in my ability to address this question. In addition to those reasons, because each of the three cases referenced in the whistleblower complaint is ongoing, it would be inappropriate for me to comment further on the confidential details of these matters as a judicial nominee. *See* Code of Conduct of U.S. Judges, Canon 3(A)(6). Thus, while I confirmed that I have participated in legal advice and deliberations relating to *JGG*, *DVD*, and *Abrego Garcia*, I must respectfully decline to disclose confidential details regarding the advice and deliberations at issue to this Committee.

However, the Deputy Attorney General has already stated publicly that the whistleblower's account of the March 14, 2025 meeting at DOJ—which took place prior to the initiation of *JGG*, much less the entry of any court orders—is not accurate. The whistleblower conceded on page 7 of the complaint that he "left the meeting understanding that DOJ would tell DHS to follow all court orders." The whistleblower also asserted at page 25 of the complaint that he "could not sign [a] brief" when he felt it contained "unsupported arguments." But the whistleblower felt no similar constraint with respect to DOJ's March 25, 2025 brief explaining the legal and factual reasons why "the Government has complied with the Court's orders" in *JGG*, which the whistleblower signed. ECF No. 58 at 13, *JGG v. Trump*, No. 25 Civ. 766 (D.D.C. Mar. 25, 2025).

While the whistleblower has suggested that DOJ took unsupported positions in *JGG*, *DVD*, and *Abrego Garcia*, DOJ received at least some emergency appellate relief from adverse trial court decisions in each case. The whistleblower claims that there was "no evidence" to support the allegation regarding Abrego Garcia's gang membership, but he also acknowledged the submission of the March 31, 2025 declaration of Robert Cerna, which discussed evidence of Abrego Garcia's alleged gang membership. *See* App. 59a, *Noem v. Abrego Garcia*, No. 24A949 (Apr. 7, 2025) (describing immigration judge finding that Abrego Garcia was a "danger to the community because the evidence show[ed] that he is a verified member of [MS-13]" (cleaned up)). Additionally, the whistleblower's complaint alleges that the whistleblower asserted that the government "could not" raise an argument "on appeal for the first time." Not so. Even when an argument is not raised below, a court of appeals can consider an issue raised for the first time on appeal, including by exercising its discretion to do so or if the responding party fails to argue that the argument was forfeited. *See, e.g.*, *El Puente v. United States Army Corps of Eng'rs*, 100 F.4th 236, 256 (D.C. Cir. 2024); ("[A] forfeiture can be forfeited by failing on appeal to argue an argument was forfeited." (cleaned up)); *Flynn v. Comm'r*, 269 F.3d 1064, 1069 (D.C. Cir. 2001) ("The rule is not absolute, and courts of appeals have discretion to address issues raised for the first time on appeal.").

6. In April 2025, you were personally involved in the decision to ignore a federal court order in the *J.G.G. v. Trump* case, as you acknowledged during your hearing and as was described in Mr. Reuveni's Whistleblower Protection Act complaint. The judge in that matter, Chief Judge James Boasberg of the D.C. Federal District Court, found probable cause exists to find the government in criminal contempt.[2] The court's contempt decision was detailed in a forty-six-page memorandum opinion, including a detailed timeline of statements and actions by Department of Justice attorneys appearing before the court in that matter.

   Response: I respectfully disagree with the characterizations in question 6 of my decisions at DOJ and my testimony at the confirmation hearing. In the ongoing litigation in *JGG v. Trump*, the D.C. Circuit has stayed Judge Boasberg's decision regarding contempt, as well as other of his rulings, pending consideration of the merits of those appeals. *See* ECF No. 2111846, *JGG v. Trump*, No. 25-5124 (D.C. Cir. Apr. 18, 2025); *see also* ECF No. 2120161, *JGG v. Trump*, No. 25-5217 (D.C. Cir. June 10, 2025).

   a. Did you participate in any way in the drafting or review of the Proclamation invoking the Alien Enemies Act?

   Response: Yes.

   b. When did you first learn that President Trump had signed the Proclamation invoking the Alien Enemies Act?

   Response: Please see my response to 1.b. It would also be inappropriate for me to address this question, as a nominee, because there is going litigation relating to the Proclamation in *JGG* as well as other cases.

   c. Did you know that the government was staging certain individuals at a detention facility in Texas, near the Mexican border, in advance of President Trump signing the proclamation?

   Response: Please see my response to question 6.b.

   d. When did you learn that Chief Judge Boasberg had entered a temporary restraining order preventing the removal of plaintiffs in the *J.G.G. v. Trump* case?

[2] *J.G.G. et al v. Trump,* No. 1:25-cv-00766-JEB, 2025 WL 890401 (D.D.C. Apr. 16, 2025) (administratively stayed pending appeal).

Response: Please see my response to question 6.b.

i. **Did you participate in any way in discussions on March 15, 2025, about the *J.G.G. v. Trump* case or impending flights sending persons to El Salvador?**

Response: Please see my response to question 6.b.

ii. **Please describe in detail your role in those conversations, what you said, how others responded, and what was decided during the meeting.**

Response: Please see my response to question 6.b.

e. **Mr. Reuveni's Whistleblower Protection Act complaint states that he was instructed by Deputy Assistant Attorney General Drew Ensign to prepare a notice of appearance for you in the *J.G.G. v. Trump* case, as you would be explaining the government's position on why it had not already violated the court's orders. Did you or your staff prepare or draft any pleadings for this case?**

Response: Please see my response to question 6.b.

f. **Did you personally correspond with any personnel at the Department of Homeland Security or Department of State in March 2025 regarding the deportation of Venezuelans under the Alien Enemies Act? If so, who?**

Response: Please see my response to question 6.b.

i. **If you do not recall any of these individuals' names, who were their supervisors?**

Response: Please see my response to question 6.b.

ii. **Please describe the correspondence and provide copies.**

Response: Please see my response to question 6.b.

7. Chief Judge Boasberg's contempt order in the *J.G.G. v. Trump* case is currently on appeal before the D.C. Circuit. Following the Whistleblower Protection Act disclosures submitted by Mr. Reuveni, the District Court may find it necessary to schedule additional contempt proceedings to take evidence, including sworn testimony from government

attorneys who attended the meeting in which you are alleged to have told attendees there may be a need to tell courts "fuck you" and to ignore court orders. Mem. Op. at 44, *J.G.G. v. Trump*, No. 1:25-cv-00766-JEB, 2025 WL 890401 (D.D.C. Apr. 16, 2025) (noting circumstances where the "Court will proceed either to hearings with live witness testimony under oath or to depositions") (administratively stayed pending appeal).

a. Do you commit to honoring any subpoena or court order that requires your testimony on matters within your personal knowledge relating to the contempt hearing or related investigations of professional misconduct?

Response: Without waiving any rights and subject to applicable objections and legal advice that I may receive relating to the facts and circumstances presented by a particular case, I will follow lawful court orders and comply with my ethical obligations.

b. If further proceedings should confirm the veracity of Mr. Reuveni's account and demonstrate that you lied before the Committee, do you commit to resigning from public office, including either as a senior official at the Department of Justice or as a judge on the Third Circuit?

Response: I reject the premise of this question, respectfully incorporate my response to question 1.b and question 5 above, and refer you to the public statement by the Deputy Attorney General, which notes that the allegations in Mr. Reuveni's account "are utterly false."

8. During your testimony before the Committee, you stated that you "have never advised a Department of Justice attorney to violate a court order." Mr. Reuveni's Whistleblower Protection Act disclosures, however, suggest you instructed attorneys or employees from other agencies, including the Department of Homeland Security and Department of State, to violate a court order in the *J.G.G. v. Trump* case.

a. Have you ever instructed an attorney or employee from any executive branch agency to ignore or violate a federal court order?

Response: While I have participated in the provision of legal advice regarding the scope of court orders, I have not advised a DOJ attorney or other government official to violate a court order.

b. Have you ever suggested or implied that an attorney or employee from any executive branch agency should ignore or violate a federal court order?

Response: Please see my response to question 8.a.

c. Have you ever suggested or implied that an attorney or employee from any executive branch agency could ignore or violate a federal court order?

Response: I have participated in theoretical conservations about this topic that were rooted in 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); Gary Lawson & Christopher D. Moore, *The Executive Power of Constitutional Interpretation*, 81 Iowa L. Rev. 1267, 1326 (1996) (constitutional error "so clear that it is not open to rational question"); *see also* 17 Corpus Juris Secundum Contempt §§ 56-65 (discussing contempt defenses); Josh Blackman, *The Department of Justice's 'Longstanding' General Practice of Intracircuit Nonacquiescence*, The Volokh Conspiracy (May 16, 2025). Some litigants and jurists have drawn a distinction between a court's binding "judgment[]" and its "statements in opinions." *Camreta v. Greene*, 563 U.S. 692, 704 (2011).

Certain interlocutory orders might be immediately appealable only via the avenue of a contempt finding, in which case defying the order would arguably be the exclusive path to appellate review. *See, e.g.*, *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. 100, 111 (2009) ("Another long-recognized option is for a party to defy a disclosure order and incur court-imposed sanctions."); *In re Grand Jury*, 705 F.3d 133, 142 (3d Cir. 2012). In *Maness v. Meyers*, 419 U.S. 449, 465-66 (1975), the Supreme Court addressed "whether in a civil proceeding a lawyer may be held in contempt for counseling a witness in good faith to refuse to produce court-ordered materials on the ground that the materials may tend to incriminate the witness in another proceeding." *Id.* at 465. Based on the record before it, the Court held that the lawyer could "not be penalized even though his advice caused the witness to disobey the court's order." The Court explained that "[t]he privilege against compelled self-incrimination would be drained of its meaning if counsel, being lawfully present, as here, could be penalized for advising his client in good faith to assert it." *Id.* at 465-66 (footnote omitted).

I reiterate, however, that any conversations about these issues were theoretical and abstract, and my answers to questions 8.a and 8.b. are also accurate.

d. Have you ever suggested or implied that an attorney or employee from any executive branch agency should complete an action quickly in order to preempt an anticipated adverse federal court order?

Response: Generally speaking, like most lawyers, I have participated in legal advice and deliberations relating to strategic planning that accounts for, among other things, litigation risks arising from anticipated litigation. That said, those conversations have not included discussion of efforts to "preempt" non-existent court orders.

e. Chief Judge Boasberg's order directed the U.S. Government to turn planes around or not disembark individuals. Did you instruct, advise or suggest to any attorney or employee from any executive branch agency to turn planes around or not to disembark individuals on planes which departed on March 15, 2025, and later landed in El Salvador?

Response: Please see my response to question 1.b and question 6.b.

f. Did you, at any time, instruct, advise, or suggest to anyone that the planes should not be turned around?

Response: Please see my response to question 1.b and question 6.b.

g. Did you instruct, advise or suggest to any attorney or employee from any executive branch agency that it would be legally permissible to disembark individuals on planes which landed in El Salvador after Chief Judge Boasberg's oral directive to either turn the planes around or not disembark the individuals due to the pending litigation?

Response: Please see my response to question 1.b and question 6.b.

h. Did you, at any time, instruct, advise, or suggest to anyone that the individuals should be disembarked from the planes?

Response: Please see my response to question 1.b and question 6.b.

i. Did you have any communications, oral or written, with White House Deputy Chief of Staff Stephen Miller about the *J.G.G. v. Trump* case, planes headed for El Salvador's CECOT, or other plans to send U.S. detainees for detention in foreign countries?

Response: Please see my response to question 1.b and question 6.b.

i. If so, when did you communicate with Stephen Miller?

Response: Please see my response to question 1.b and question 6.b.

9. Extensive public reporting and court proceedings have revealed that the Trump Administration sought to ensure that the government-funded planes destined for El Salvador's CECOT mass prison departed as soon as possible while the legality of doing so was under direct and immediate consideration by a federal court.[3] Chief Judge Boasberg concluded during that litigation that "the Government might be rapidly dispatching removal flights in an apparent effort to evade judicial review." If you are confirmed, you will be responsible for judicial review of government actions.

a. When, if ever, and in what specific circumstances, is it appropriate for a government official to speed up official activity to avoid judicial review?

Response: Because this question implicates issues in ongoing litigation and that could come before me as a judge if I am fortunate enough to be confirmed, it would be inappropriate for me, as a nominee, to respond. To the extent this question seeks information regarding my views on public policy issues, consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a nominee, to take a position.

b. Did you take any action, whether in oral conversation or writing, to accelerate or enable the departures of the government-funded planes to El Salvador that departed on March 15, 2025?

Response: Please see my response to question 1.b and question 6.b.

c. Did you take any action that would moot the court's order?

Response: Please see my response to question 1.b and question 6.b.

d. What options are available to judges who conclude that a litigant took steps to willfully evade judicial review in a pending case?

[3] *See, e.g., J.G.G. v. Trump*, 2025 WL 890401, at *2–6 (D.D.C. Mar. 24, 2025).

Response: Generally speaking, judges have several tools at their disposal to ensure meaningful judicial review in a pending case, and to impose consequences on parties who willfully evade appropriate judicial review while that case is pending. In a pending case, as the question posits, these tools include civil and criminal contempt proceedings, and requiring parties to file reports and appear for conferences to discuss the status of the matter and any issues that need to be addressed.

e. Were you involved in any discussions on whether to invoke the state secret's doctrine which resulted in the failure to share relevant information with the court? If so, was there any discussion of the use of that doctrine to hide from the court certain facts, like the timing of departures and disembarkation, or other facts that would be relevant to the court's determination regarding contempt in this matter or any other?

Response: Please see my response to question 1.b and question 6.b.

10. At your confirmation hearing, you refused to answer Senator Blumenthal's question as to whether you spoke to White House Deputy Chief of Staff Stephen Miller about the potential dismissal of the Eric Adams criminal case. In refusing to respond, you relied on the attorney-client privilege or the deliberative process privilege. However, neither of these privileges apply to Senator Blumenthal's question. The mere existence of a communication between you and Miller is not a privileged confidential communication for the purpose of seeking legal advice recognized by courts or this Committee. Nor is it "deliberative" material in any sense.

Given the inapplicability of the privileges you cited, did you speak or communicate with Stephen Miller regarding the Eric Adams criminal case at any point?

Response: Please see my response to question 1.b. I respectfully disagree with the legal arguments in question 10, and I believe that my approach to addressing questions at the hearing is consistent with the approaches taken at confirmation hearings by many nominees who are now Senate-confirmed justices and judges. Pertinent excerpts from those confirmation proceedings are set forth in Appendix A to my responses to Chairman Grassley's questions for the record. For instance, Justice Kagan declined to discuss "internal deliberations" at DOJ, including "any contact from the White House" in two specific cases. *See The Nomination of Elena Kagan to Be an Associate Justice of the Supreme Court of the United States*, S. Hrg. 111-1044 (2010), at 257. Similarly, Elizabeth Prelogar declined to discuss "internal deliberations" at DOJ, including whether she "consult[ed] with any higher-ranking

official in the Department of Justice" about switching the government's position in litigation. In response to a question for the record from Senator Hawley, Ms. Prelogar asserted that "it would be inappropriate to comment on internal Executive Branch deliberations as to the handling of any specific case."

i. **What supervisory authority, if any, does Stephen Miller hold over the U.S. Department of Justice?**

Response: Mr. Miller is President Trump's Deputy Chief of Staff for Policy and Homeland Security Advisor. In that position, he has no formal supervisory authority over DOJ.

ii. **What supervisory authority, if any, does Stephen Miller hold over public integrity investigations conducted by the U.S. Department of Justice, including Offices of the United States Attorneys?**

Response: Please see my response to question 10.i.

b. **Under what circumstances is it appropriate for the Department of Justice to consult about active criminal investigations or litigation with White House staff?**

Response: While I cannot offer an exhaustive list in this format, there are many circumstances in which it is appropriate for DOJ to consult with the White House about active criminal investigations or litigation.

For example, sometimes White House personnel are victims of potential federal crimes. *See* Rebecca Falconer, *Iran-linked hackers threaten to release emails stolen from Trump associates*, Axios, Jul. 1, 2025. As another example, there are many instances in which White House personnel have been, in essence, clients of DOJ in litigation, as well as situations in which White House policies or actions are subject to litigation. These are additional examples of situations where it is appropriate for DOJ to consult with White House staff.

c. **Provide a complete list of all individuals with whom you communicated about the Eric Adams criminal case during the period of your employment at the Department of Justice, including the date of the communication and the official title of the individual with whom you communicated at the time of such communication.**

Response: Please see my response to question 1.b.

d. If you refuse to answer any of the questions above based on any privilege, please provide legal justification, including case law, for how that privilege applies to the information requested.

Response: Please see my response to question 1.b.

e. Given the inapplicability of the privileges you cited or any other, did you speak or communicate with President Trump regarding the Eric Adams criminal case at any point?

Response: Please see my response to question 1.b.

11. During your confirmation hearing, you admitted that during a meeting about potential dismissal of the Eric Adams case, you remarked on an individual taking "extensive notes." The former Acting United States Attorney for the Southern District of New York wrote that you "directed the collection" of those notes. During your hearing, you refused to provide these notes, testifying that you would leave it up to the Executive Branch to decide whether to invoke privilege. By now, several days have passed since your confirmation hearing.

a. Has the Executive Branch invoked privilege to prevent disclosure of the notes from that meeting? If yes, please provide legal justification, including case law, for how that privilege applies to the information requested.

Response: As a nominee, I am not aware of whether the Committee has made a procedurally appropriate request for the notes, and I am not aware of how the relevant personnel in the Executive Branch would respond to any such request.

b. If you have not heard from the Executive Branch regarding its intention to invoke privilege, please provide all copies of notes from that meeting below.

Response: Please see my response to question 11.a. I defer to the relevant personnel in the Executive Branch on the negotiation of appropriate confirmation procedures with the Committee and addressing document requests at this point in the proceedings.

c. If you refuse to provide such copies, please provide legal justification including case law for your refusal.

Response: Please see my responses to question 1.b, question 11.a, and question 11.b.

d. Please provide the name and official title of the individual who collected the prosecutors' notes from the meeting.

Response: Please see my response to question 1.b.

e. Have you read a copy of these notes at any time after the meeting in which they were produced, or in preparation for your confirmation hearing? Please describe in detail what is included in those notes.

Response: No.

12. How many prosecutors in the U.S. Attorney's Office for the Southern District of New York resigned after declining to carry out your directive to dismiss the Adams case?

Response: To my knowledge, approximately 5.

13. How many prosecutors at the Public Integrity Section of the Justice Department resigned after declining to carry out your directive to dismiss the Adams case?

Response: I am aware of public reports relating to resignations by members of the Public Integrity Section, including around the time that DOJ moved to dismiss the charges against Mayor Adams, but I am not aware of particulars regarding the number of resignations or the stated bases for the resignations.

14. Other than the Adams case, did you ever:

a. request to be briefed by prosecutors on a criminal matter that they were personally handling or supervising for reasons that related to a subject or target's relationship to the Trump family, including Jared Kushner? If so, who did you ask, direct, or instruct and when did this occur?

Response: Please see my response to question 1.b.

b. ask, direct, or instruct prosecutors to dismiss a criminal matter for reasons that related to a subject or target's relationship to the Trump family, including Jared Kushner? If so, who did you ask, direct, or instruct and when did this occur?

Response: Please see my response to question 1.b.

15. Other than the Adams case, did you ever:

a. request to be briefed by prosecutors on a criminal matter that they were personally handling or supervising involving any member of the Trump family, including Jared Kushner? If so, who did you ask, direct, or instruct, and when did this occur?

Response: Please see my response to question 1.b.

b. ask, direct, or instruct prosecutors to dismiss a criminal matter that they were personally handling or supervising involving any member of the Trump family, including Jared Kushner? If so, who did you ask, direct, or instruct and when did this occur?

Response: Please see my response to question 1.b.

16. Other than the Adams case, did you ever:

a. request to be briefed by prosecutors on a criminal matter that they were personally handling or supervising involving an employee, contractor or associate of the Trump political campaign or related political action committees? If so, who did you ask, direct, or instruct, and when did this occur?

Response: Please see my response to question 1.b.

b. ask, direct, or instruct prosecutors to dismiss a criminal matter that they were personally handling or supervising involving an employee, contractor or associate of the Trump political campaign or related political action committees? If so, who did you ask, direct, or instruct and when did this occur?

Response: Please see my response to question 1.b.

17. Other than the Adams case, did you ever:

a. request to be briefed by prosecutors on a criminal matter that they were personally handling or supervising involving a person who became a political

appointee in the current administration? If so, who did you ask, direct, or instruct, and when did this occur?

Response: Please see my response to question 1.b.

b. ask, direct, or instruct prosecutors to dismiss a criminal matter that they were personally handling or supervising involving a person who became a political appointee in the current administration? If so, who did you ask, direct, or instruct and when did this occur?

Response: Please see my response to question 1.b.

18. Other than the Adams case, did you ever:

a. request to be briefed by prosecutors on a criminal matter that they were personally handling or supervising involving a person who became a senior official in the current administration? If so, who did you ask, direct, or instruct, and when did this occur?

Response: Please see my response to question 1.b.

b. ask, direct, or instruct prosecutors to dismiss a criminal matter that they were personally handling or supervising involving a person who became a senior official in the current administration? If so, who did you ask, direct, or instruct and when did this occur?

Response: Please see my response to question 1.b.

19. Other than the Adams case, did you ever:

a. request to be briefed by prosecutors on a criminal matter that they were personally handling or supervising involving a person who became a Cabinet member in the current administration? If so, who did you ask, direct, or instruct, and when did this occur?

Response: Please see my response to question 1.b.

b. ask, direct, or instruct prosecutors to dismiss a criminal matter case that they were personally handling or supervising involving a person who became a

Cabinet member in the current administration? If so, who did you ask, direct, or instruct and when did this occur?

Response: Please see my response to question 1.b.

20. Other than the Adams case, did you ever:

a. request to be briefed by prosecutors on a criminal matter that they were personally handling or supervising involving a person who became a special government employee in the current administration? If so, who did you ask, direct, or instruct, and when did this occur?

Response: Please see my response to question 1.b.

b. ask, direct, or instruct prosecutors to dismiss a criminal matter that they were personally handling or supervising involving a person who became a special government employee in the current administration? If so, who did you ask, direct, or instruct and when did this occur?

Response: Please see my response to question 1.b.

21. Other than the Adams case, did you ever:

a. request to be briefed by prosecutors on a criminal matter that they were personally handling or supervising involving a political supporter of President Trump? If so, who did you ask, direct, or instruct and when did this occur?

Response: Please see my response to question 1.b.

b. ask, direct, or instruct prosecutors to dismiss a criminal matter that they were personally handling or supervising involving a political supporter of President Trump. If so, who did you ask, direct, or instruct and when did this occur?

Response: Please see my response to question 1.b.

22. You served for several years as an Assistant United States Attorney and have cited your experience supervising federal criminal prosecutions as a key qualification for your nomination and evidence of your judicial temperament.

a. Are you familiar with the evidence required to support the initiation of a federal grand jury investigation?

Response: Yes.

b. Please explain the threshold for federal prosecutors initiating a grand jury investigation and issuing grand jury subpoenas.

Response: A grand jury "can investigate merely on suspicion that the law is being violated, or even just because it wants assurance that it is not." *United States v. Morton Salt Co.*, 338 U.S. 632, 642-43 (1950). In the Third Circuit, prosecutors may be required to make a "preliminary showing by affidavit that each item [being subpoenaed] is at least relevant to an investigation being conducted by the grand jury and properly within its jurisdiction, and is not sought primarily for another purpose." *In re Grand Jury Subpoena*, 223 F.3d 213, 216 (3d Cir. 2000) (cleaned up).

c. Did you have any role or knowledge of a directive to the Criminal Division of the D.C. U.S. Attorney's Office to open a grand jury investigation into Environmental Protection Agency (EPA) grants?

Response: Yes.

d. Did any supervisor at the Criminal Division of the D.C. U.S. Attorney's Office resign after receiving a directive from your office?

Response: I am aware of public reports relating to the resignation of Denise Cheung in February 2025. Based on those reports, it is my understanding that Ms. Cheung has claimed that she resigned in response to directives from the Acting U.S. Attorney at the time.

e. Do you believe that prosecutorial discretion should be exercised differently when the subjects of investigation are political allies or opponents of the sitting President?

Response: No.

23. In May 2025, President Trump announced that the government of Qatar would be "giving" him a Boeing 747-8 luxury jumbo jet for his use as President of the United States, a plane

that has been described as a "flying palace," and that the plane would later be "donated" to his Presidential library.

a. When and how did you first learn that President Trump was seeking the Qatari Boeing 747-8 luxury jumbo jet?

Response: I participated in legal advice and deliberations relating to this issue. For the reasons set forth above in response to question 1.b, I must respectfully decline to disclose details regarding those activities.

b. Have you ever corresponded with Steven Charles Witkoff about the Qatari Boeing 747-8 luxury jumbo jet? If so, please disclose the contents of any correspondence that are not subject to a recognized privilege, or identify the grounds for withholding them.

Response: Please see my response to question 23.a.

c. Have you participated in any meetings or correspondence regarding the "foreign gift" of this Qatari plane to the United States or President Trump's future Presidential Library Foundation.

Response: Please see my response to question 23.a.

i. Please identify each meeting or correspondence, its date, location, and who was a party to the meeting or correspondence.

Response: Please see my response to question 23.a.

d. Did Attorney General Bondi ever register as a lobbyist for Qatar under the Foreign Agents Registration Act?

Response: In July 2019, Ballad Partners submitted a publicly available FARA registration statement documenting a consulting services agreement between the Embassy of the State of Qatar and Ballad Partners. *See* https://efile.fara.gov/docs/6415-Exhibit-AB-20190723-16.pdf. That agreement identified Attorney General Bondi as one of the "Key Personnel."

e. Are you aware of any written ethics advice, in any form, from Department of Justice career attorneys that either permits or disallows Attorney General Bondi from providing legal advice on matters involving Qatar?

Response: Please see my response to question 1.b.

f. Do you believe that there is a conflict of interest in Attorney General Bondi giving legal advice to the United States government regarding gifts from Qatar, her former client?

Response: As the nation's chief law enforcement officer and one of the principal legal advisors to President Trump, Attorney General Bondi is extremely well-qualified to provide legal advice on a variety of issues to the United States government. However, because this question seeks information regarding my views on public policy issues, consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a nominee, to take a position. In addition, generally speaking, because disputes over conflicts of interest involving parties other than Attorney General Bondi could come before me if I am fortunate enough to be confirmed, it would be inappropriate for me, as a nominee, to forecast my thinking on that type of issue.

g. Are you aware of any legal advice, in any form, from Attorney General Bondi or any other Department of Justice attorneys that explains how it would be legal for a foreign government to "gift" this plane to either the United States government or a private foundation?

Response: Please see my response to question 23.a.

i. If so, please provide a copy of the legal advice.

Response: Please see my response to question 23.a.

ii. Was the advice provided at the request of President Trump directly or via a request from an official at the White House?

Response: Please see my response to question 23.a.

h. Would the Qatari Boeing 747-8 jumbo jet be the most valuable "foreign gift" ever extended to the United States?

Response: Please see my response to question 23.a.

24. On February 10, 2025, President Trump signed Executive Order 14209, titled "Pausing

Foreign Corrupt Practices Act [FCPA] Enforcement to Further American Economic and National Security," which ceased new FCPA enforcement actions and mandated an internal review of all existing investigations. Reports since have indicated that the number of Justice Department prosecutors dedicated to foreign bribery cases has been reduced by more than half.[4] On June 9, 2025, Deputy Attorney General Todd Blanche issued new Guidelines for Investigations and Enforcement of the FCPA. These guidelines "cease initiation of any new FCPA investigations or enforcement actions, unless the Attorney General determines an individual exception should be made," and delegates authorization to the Assistant Attorney General for the Criminal Division or a more senior Department official. These new FCPA guidelines state that "In addition to distorting markets and undermining the rule of law, companies that bribe foreign officials to obtain business can put their law-abiding competitors, including U.S. companies, at a serious economic disadvantage."

a. Do you agree that bribing foreign officials to obtain business undermines the rule of law and harms the United States economy?

Response: Because this question seeks information regarding my views on public policy issues, consistent with the Code of Conduct and positions taken by prior nominees, it would be inappropriate for me, as a nominee, to take a position. In addition, because this question implicates issues that could come before me if I am fortunate enough to be confirmed, it would be inappropriate for me, as a nominee, to respond.

b. Did you personally draft, review, or edit either Executive Order 14209 or Deputy Attorney General Blanche's June 9, 2025, memo providing new FCPA guidance?

Response: I participated in legal advice and deliberations relating to both of the documents referenced in question 24.b.

c. Have you ever worked on foreign bribery or FCPA investigations or cases, whether in government or private practice?

Response: Yes.

[4] *See* Goudsward, Andrew, *US team investigating foreign bribery dwindles, sources say*, Reuters (June 9, 2025), available at www.reuters.com/business/finance/us-team-investigating-foreign-bribery-dwindles-sources-say-2025-06-09/.

i. If so, which matters did you work on and what was the resolution of each of those cases?

Response: I have participated in deliberations relating to numerous FCPA cases since I re-joined DOJ on January 20, 2025. In addition, as a prosecutor investigating foreign corruption in connection with international drug trafficking, many of my cases raised parallel issues under the FCPA and other laws prohibiting foreign bribery with a nexus to the United States. For example, that is true of my work on the prosecution of former Honduran President Juan Orlando Hernandez, who was ultimately convicted of drug-trafficking crimes and related weapons offenses, and other Honduran politicians. Additional details regarding the Hernandez case are set forth in my Senate Judiciary Questionnaire.

25. Did you communicate with President Trump, anyone at the White House, any member of President Trump's family (including Jared Kushner), or any person affiliated with President Trump's businesses about changes to the DOJ policies on the Foreign Corrupt Practices Act?

Response: Please see my response to question 1.b.

a. If so, please list each person and their official title.

Response: Please see my response to question 1.b.

b. Are you aware of any businesses affiliated with President Trump, anyone at the White House, any member of President Trump's family (including Jared Kushner), or related financial interests that could potentially benefit from the freeze on FCPA enforcement by federal prosecutors?

Response: No.

26. **Do you believe that any individuals who entered the U.S. Capitol on January 6, 2021, committed crimes?**

Response: Individuals who entered the Capitol on January 6, 2021 were convicted of crimes.

To the extent this question calls for information regarding my personal beliefs, the characterization of the events on January 6, 2021 is a matter of significant

political debate and subject to ongoing litigation. *See, e.g.*, *Blassingame, et al. v. Trump*, No. 21 Civ. 858 (D.D.C.). Pardon recipients have also litigated the scope of the pardons in question, which is an issue that I could be required to address as a judge if I am fortunate enough to be confirmed. Thus, as a judicial nominee, it would be inappropriate for me to further address this question.

a. If yes, please identify which specific criminal statutes you believe were violated.

Response: Please see my response to question 26.

27. **Do you agree that the January 6, 2021, attack was an unlawful attempt to obstruct the certification of a presidential election?**

Response: Please see my response to 26.

28. **Do you agree with the verdicts and sentencing decisions in cases where individuals were convicted of seditious conspiracy or obstruction of an official proceeding in connection with January 6?**

Response: Please see my response to 26.

a. If not, please explain.

Response: Please see my response to 26.

29. **Have you ever described the January 6 prosecutions as a "grave national injustice"?**

Response: I have quoted President Trump's Proclamation 10887, which he issued on January 20, 2025 and was entitled "Granting Pardons and Commutation of Sentences for Certain Offenses Relating to the Events at or Near the United States Capitol on January 6, 2021." 90 Fed. Reg. 8331. The Proclamation stated, in pertinent part: "This proclamation ends a grave national injustice that has been perpetrated upon the American people over the last four years and begins a process of national reconciliation."

I have described that language from Proclamation 10887 as an appropriate characterization. My record makes clear that, as a former prosecutor with almost a decade of experience enforcing criminal laws, I condemn all forms of illegal activity. That is especially true with respect to acts of violence against law enforcement. At the same time, based on a variety of professional experiences, I find overreach and heavy-handed tactics by prosecutors and

law enforcement to be equally unacceptable. These concerns are not mutually exclusive, and publicly available materials suggest that both concerns were implicated by some of the events on January 6, 2021.

a. If so, please clarify the context, and whether that remains your view today.

Response: Please see my response to question 29.

30. On January 20, 2025, President Trump pardoned more than 1500 defendants who were convicted of federal crimes in relation to the attack on the U.S. Capitol on January 6, 2021.

a. Did you participate in any meetings or correspondence regarding the pardons of these 1500 criminals?

Response: I participated in legal advice and deliberations relating to the implementation of Proclamation 10887. To the extent this question seeks non-public details, please see my response to question 1.b. As I explained at my confirmation hearing, I am hewing to the line drawn by past nominees by identifying in general terms matters that I have worked on without getting into specifics about particular topics.

b. Did you provide any legal advice about the pardon of a January 6 defendant?

Response: Please see my response to question 30.a.

c. How many of the January 6 defendants were convicted of violent offenses?

Response: I have not studied this question in detail and am not aware of the answer.

d. How many January 6 defendants were released from federal prison as a result of President Trump's pardons?

Response: Please see my response to question 30.c.

e. How many January 6 defendants have been accused of new crimes since they were pardoned?

Response: Please see my response to question 30.c.

f. What crimes have January 6 defendants been accused of since they were pardoned?

Response: Please see my response to question 30.c.

g. President Trump has made a series of allegations concerning the use of an autopen by the previous president. To your knowledge, did the administration use an autopen to sign the more than 1500 pardons and commutations granted in a single day after President Trump took office on January 20, 2025?

Response: Please see my response to question 1.b.

i. Did the President sign all 1500 pardons himself in such a short period of time?

Response: This question presumes that President Trump signed 1500 individual pardons. The Proclamation directed the Attorney General to "administer and effectuate the immediate issuance of certificates of pardon to all individuals described" in the Proclamation. To the extent this question seeks non-public details regarding the pardons, please see my response to question 1.b.

ii. Did anyone else sign any of those 1500 pardons for the President?

Response: Please see my response to question 30.g.i.

31. On May 14, 2025, President Trump appointed Edward "Ed" R. Martin as the U.S. Pardon Attorney, after Mr. Martin's nomination to be United States Attorney for the District of Columbia failed and was withdrawn. Have you reviewed or been consulted by Mr. Martin or his office on any pardon applications or pardon grants other than those involving January 6 defendants?

Response: Yes, in the normal course of my duties in the Office of the Deputy Attorney General as part of the Office's responsibility for DOJ's Office of the Pardon Attorney.

a. If so, please identify which pardon applications or grants you have been consulted on.

Response: Please see my response to question 1.b.

32. Have you ever discussed with President Trump or any other individual the possibility of receiving a pardon for your conduct or work in representing President Trump as a private lawyer?

    Response: No.

33. Have you ever discussed with President Trump or any other individual the possibility of receiving a pardon for your conduct or work in representing President Trump as a Department of Justice employee?

    Response: No.

34. Have you ever discussed with President Trump or any other individual the possibility of a pardon for you or any other persons for representations made before Congress, including during the nominations or confirmation process?

    Response: No.

35. Yes or no, did you participate in any meetings, memos, or decisions during your tenure at the Department of Justice beginning in January of 2025 in which political considerations, such as a defendant's opinion of the Trump administration, were discussed in relation to whether a pardon was advisable?

    Response: No.

36. Were you involved in any personnel decisions, including reassignment or termination, of Department of Justice personnel who were involved in the January 6 investigations, including DOJ prosecutors, FBI special agents, or other staff?

    Response: I have participated in numerous personnel decisions since I re-joined DOJ in January 2025. Many of the personnel decisions in which I have participated are not public. For reasons similar to those explained in question 1.b, DOJ typically does not comment on personnel decisions, and I must therefore respectfully decline to comment as well.

    a. If yes, please provide details on your role, who else was involved, and the rationale.

    Response: To the extent this question seeks non-public details regarding my role in a particular personnel actions, please see my response to question 36.

At my confirmation hearing, there were questions about two personnel decisions that have been discussed in public to some extent: (1) the terminations of probationary employees at the U.S. Attorney's Office for the District of Columbia who had worked on prosecutions relating to events on January 6, 2021; and (2) DOJ's request for a list of "all current and former FBI personnel assigned at any time to investigations and/or prosecutions relating to . . . events that occurred . . . on January 6, 2021," ECF No. 25-5, *Does 1-9 v. DOJ*, No. 25 Civ. 325 (D.D.C. Feb. 24, 2025). Because these decisions and the underlying events on January 6, 2021 are subject to ongoing litigation in federal court and before the Merit Systems Protection Board, Canon 3(A)(6) limits the extent to which I can comment on these matters. *See, e.g.*, *Blassingame, et al. v. Trump*, No. 21 Civ. 858 (D.D.C.); *Does 1-9 v. DOJ*, No. 25 Civ. 325 (D.D.C.); *FBI Agents Ass'n v. DOJ*, No. 25 Civ. 328 (D.D.C.). However, publicly available materials provide important context for each decision.

I issued a publicly available memorandum on January 31, 2025 relating to the terminations of the probationary employees at the U.S. Attorney's Office for the District of Columbia. The memorandum explained my understanding that "after President Trump was elected to his second term in Office, the Biden Administration's Justice Department converted these [term] employees to permanent status," which "resulted in the mass, purportedly permanent hiring of a group of AUSAs" that "improperly hindered the ability of Acting U.S. Attorney [Ed] Martin to staff his Office in furtherance of his obligation to faithfully implement the agenda that the American people elected President Trump to execute." The memorandum further explained that these "subversive personnel actions" drove my thinking about the termination decisions of these probationary employees.

I issued a second memorandum on January 31, 2025, which is also publicly available, requesting the list of FBI employees who were assigned to investigations and prosecutions relating to events on January 6, 2021. The memorandum stated that the requested list would be used to "commence a review process to determinate whether any additional personnel actions are necessary." Consistent with that explanation, the Acting Director of the FBI indicated in a February 4,2025 email that he was "confident" that DOJ would "undertake a full and fair review of the data we provided" and that "the FBI does not consider anyone's identification on one of these lists as an indicator of misconduct." ECF No. 11-2, *Does 1-9 v. DOJ*, No. 25 Civ. 325 (D.D.C. Feb. 24, 2025). The following day, I sent a private email to the FBI that reiterated the point: "No FBI employee who simply followed orders and carried out their duties in an ethical manner with respect to January 6

investigations is at risk of termination or other penalties." ECF No. 11-3, *id.* In light of the ongoing litigation, DOJ "has not commenced this [review] process" or "accessed the unclassified list of names that prior acting FBI leadership claimed to have sent." ECF No. 45-1 at 4, *id.*

b. Have you ever provided any legal advice regarding the termination of FBI special agents or Department of Justice prosecutors?

Response: Yes.

c. Were you aware in advance that FBI special agents who participated in January 6-related investigations would be terminated?

Response: Please see my response to question 1.b and question 36.a.

d. Were you aware in advance that prosecutors who participated in January 6 cases and were on probationary employee status would be terminated?

Response: Please see my response to question 1.b and question 36.a.

e. Were you aware in advance that additional prosecutors who participated in January 6 cases would be terminated in June 2025, mere days after your nomination hearing?

Response: I did not play a substantive role in the personnel decisions referenced in question 36.e.

37. Do you agree your prior actions and expressed views on the January 6 attack on the United States Capitol could raise reasonable doubts about your impartiality if you were to hear cases related to the attack as a judge?

Response: No. All former litigators have a record of previous advocacy positions. It is incumbent upon every judge to put aside his or her personal beliefs, previous clients, and prior positions, and to apply the law fairly and faithfully.

Any concerns about my ability to serve impartially as a judge, should I be fortunate enough to be confirmed, are addressed by reference to my broader career, which has involved more than two decades of legal work and significant public service. I have been involved in the criminal justice process as a paralegal, a law clerk, a prosecutor, a defense lawyer, and a senior official at DOJ. During that period, I have participated in more cases than I could

count and interacted with hundreds, if not thousands, of professionals. I currently help manage an agency with over 100,000 employees. Numerous letters submitted in support of my nomination add accurate details and important context about who I am as a person and a lawyer. Considered review of this entire record should assuage any concerns about my ability to be impartial if I am confirmed.

38. Would you commit to recusing yourself from any cases related to the events of January 6, the defendants charged in connection with it, or government employees who were tasked with investigating or prosecuting January 6 defendants, given your prior DOJ role and any public perceptions of bias?

Response: As I explained in my Senate Judiciary Questionnaire, if I am confirmed, I would refer to 28 U.S.C. § 455, the Code of Conduct for United States Judges, any guidance provided by the Chief Judge of the Third Circuit and the Administrative Office for the United States Courts, and any other applicable laws, rules, and practices governing conflicts of interest. In situations that present actual conflicts of interest based on my current or prior positions at the Department of Justice, I would recuse myself from any cases in which I was personally involved as a prosecutor or supervisor. In situations involving potential conflicts of interest, I would disclose all relevant information to the parties, allow the parties to be heard, and then rule on any recusal motion based upon the application of all relevant authorities and guidance. Beyond that, it would be inappropriate for me to prejudge any hypothetical recusal motion.

39. Do you believe that describing January 6 defendants as patriots or political prisoners is consistent with the judicial oath to administer justice impartially and without political influence?

Response: If I am fortunate enough to be confirmed, I would take all aspects of the judicial oath extremely seriously. However, the characterization of the events on January 6, 2021 is a matter of significant political debate and subject to ongoing litigation. *See, e.g.*, *Blassingame, et al. v. Trump*, No. 21 Civ. 858 (D.D.C.). Consequently, it would be inappropriate for me, as a nominee, to comment on the characterizations in question 39.

40. During your confirmation hearing, you mentioned the "unitary executive." Do you believe in the "unitary executive" theory of presidential power? Explain your judicial philosophy on this issue, including whether you believe that one person should wield exclusive power over the execution of laws in the United States.

Response: "[I]n some sense all Article II scholars believe that the Constitution creates a unitary Executive." Steven G. Calabresi & Saikrishna B. Prakash, *The President's Power*

to Execute the Laws, 104 Yale L.J. 541, 545 n.6 (1994). At my confirmation hearing, I referenced *Seila Law*, which states: "Under our Constitution, the 'executive Power'—all of it—is 'vested in a President,' who must 'take Care that the Laws be faithfully executed.'" 591 U.S. 197, 203 (2020) (quoting Article II). The *Seila Law* Court also made clear that "[t]he entire 'executive Power' belongs to the president alone," and that "lesser officers must remain accountable to the President, whose authority they wield." *Id*. at 213. Accordingly, as a matter of judicial philosophy, I view adherence to the unitary executive theory as being derivative of my commitment to faithfully apply Supreme Court precedent—including but not limited to *Seila Law*—should I be confirmed.