

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for David Clay Wilkerson Fowlkes
Nominee to be U.S. District Judge for the Western District of Arkansas
November 26, 2025

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

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

Response: I appeared for a Rule 5 hearing held in Western Arkansas for an individual who was charged by the United States Attorney's Office in Washington, D.C. for his involvement in the events of January 6. That appearance was my only involvement in the case.

Former Acting Deputy Attorney General Emil Bove previously directed a U.S. Attorney to fire dozens of line prosecutors who had worked on January 6 cases. Mr. Bove also sought the names of thousands of FBI employees who had worked on investigations into January 6 rioters and accused these career public servants of "weaponiz[ing]" the FBI against these violent offenders.

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

Response: It would be inappropriate for me to comment on the human resources decisions by other individuals at the Department of Justice. Further, this would likely require me to issue a political comment, which is prohibited by Judicial Canon Five.

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

Response: It would be inappropriate for me to comment on the investigative and charging decisions by other individuals at the Department of Justice. Further, this would likely require me to issue a political comment, which is prohibited by Judicial Canon Five.

2. You served for several years as the First Assistant to U.S. Attorney Duane Kees. Mr. Kees resigned from the U.S. Attorney's Office for the Western District of Arkansas after the Office of the Inspector General (OIG or Office) at the Department of Justice (DOJ) received a referral from the Executive Office for U.S. Attorneys based on information

that Mr. Kees had sent inappropriate text messages to a subordinate. The OIG concluded that Mr. Kees committed misconduct by engaging in an intimate relationship with a subordinate despite warnings from DOJ leadership that the Department would not tolerate such relationships. The Office also found that while Mr. Kees was engaged in the improper relationship, he supervised the subordinate and participated in pay, performance, and reassignment decisions affecting her.

a. When did you become aware of Mr. Kees's relationship in the office?

Response: I became aware of this relationship on the day that EOUSA and OIG began their investigation of the matter.

b. When did you become aware of the OIG investigation?

Response: I became aware of the OIG investigation on the day it was initiated.

c. After the OIG issued its report, did you implement any additional office trainings or guidelines to prevent such misconduct from occurring again?

Response: Yes, we worked with the DOJ General Counsel's Office to ensure that our sexual harassment point of contact was provided with additional training and guidelines in an attempt to ensure that this misconduct would not occur again in the future. We also confirmed that every employee in the office complied with the annual sexual harassment prevention training requirements.

3. Throughout your career as a state and federal prosecutor, you have come across many public defenders. I believe that public defenders are critical to the criminal justice system and are vital to not only ensuring the judicial process works fairly, but also to preserving their clients' constitutional rights.

How has your experience working with public defenders shaped your view of what it takes to ensure the criminal justice system works fairly for all involved?

Response: I have been so very fortunate to work with great public defenders throughout my career in Western Arkansas. These individuals are skilled advocates who are dedicated to ensuring that each of their clients receives the very best legal representation possible. I have learned from them the importance of pursuing justice, of seeking fairness in each stage of the proceedings, and the dedication to the hard work required to make sure that each defendant receives the best representation for their individual cases.

4. Did President Trump lose the 2020 election?

Response: Congress certified President Biden as the winner of the 2020 election.

5. Where were you on January 6, 2021?

Response: I was working at the United States Attorney's Office in Western Arkansas.

6. Do you denounce the January 6 insurrection?

Response: The wording of this question and the answer it seeks from me would require me to issue a statement of an inherently political nature. This would be inappropriate for me to do, as a judicial nominee. This is according to the prohibition of political activity in Judicial Canon 5.

7. 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: The wording of this question and the answer it seeks from me would require me to issue a statement of an inherently political nature. This would be inappropriate for me to do, as a judicial nominee. This is according to the prohibition of political activity in Judicial Canon 5.

8. 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. Alarming, 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: Any litigant who disagrees with an order from the court should seek an appeal or a stay of the order pursuant to the Federal Rules of Civil Procedure.

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

Response: All parties must follow court orders in the absence of a stay.

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

Response: In general, the judicial branch bears this responsibility.

9. District judges have occasionally issued non-party injunctions, which may include “nationwide injunctions” and “universal injunctions.”

a. Are non-party injunctions constitutional?

Response: In a recent case, *Trump. v. CASA*, 145 S.Ct. 2540 (2025), the Supreme Court held that universal injunctions *may* exceed the equitable authority that Congress has given to federal courts and that ordinarily equitable power only extends to grant complete relief to the parties before the court. Specifically, the Supreme Court held that “[a] universal injunction can be justified only as an exercise of equitable authority, yet Congress has granted federal courts no such power.” *Id.* at 2550. As such, the equitable power of courts generally extends only to granting complete relief to the parties before the court. While the Court did not categorically hold that all non-party injunctions are unconstitutional, this decision does provide guidance that limits the applicability of such injunctions. If confirmed as a district judge, I would apply all relevant precedent when considering injunctive relief. As a judicial nominee, the canons of judicial conduct prohibit me from elaborating further as this is an issue that could come before me as a district judge. *See* Code of Conduct for U.S. Judges, Canon 3(A)(6).

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

Response: Please see my response to question 9(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 9(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: No.

10. 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.

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

Response: The 22nd Amendment to the Constitution provides that no person shall be elected to the office of President more than twice.

12. On May 26, 2025, in a Truth Social post, President Trump referred to some judges whose decisions he disagrees with, as “USA HATING JUDGES” and “MONSTERS”, who

“...SUFFER FROM AN IDEOLOGY THAT IS SICK, AND VERY DANGEROUS FOR OUR COUNTRY...”¹

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

Response: The wording of this question and the answer it seeks from me would require me to issue a statement of an inherently political nature. This would be inappropriate for me to do, as a judicial nominee. This is according to the prohibition of political activity in Judicial Canon 5.

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

Response: The wording of this question and the answer it seeks from me would require me to issue a statement of an inherently political nature. This would be inappropriate for me to do, as a judicial nominee. This is according to the prohibition of political activity in Judicial Canon 5.

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

- a. Do you agree that these judges are engaged in a “judicial coup” and that “we are living under a judicial tyranny”?**

Response: The wording of this question and the answer it seeks from me would require me to issue a statement of an inherently political nature. This would be inappropriate for me to do, as a judicial nominee. This is according to the prohibition of political activity in Judicial Canon 5.

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

Response: The wording of this question and the answer it seeks from me would require me to issue a statement of an inherently political nature. This would be inappropriate for me to do, as a judicial nominee. This is according to the prohibition of political activity in Judicial Canon 5.

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

² Stephen Miller (@StephenM), X, (May 28, 2025, 7:48 PM), <https://x.com/StephenM/status/1927874604531409314>.

³ Stephen Miller (@StephenM), X, (May 29, 2025, 8:25 AM), <https://x.com/StephenM/status/1928065122657845516>.

- 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: The wording of this question and the answer it seeks from me would require me to issue a statement of an inherently political nature. This would be inappropriate for me to do, as a judicial nominee. This is according to the prohibition of political activity in Judicial Canon 5.

- 14. When, if ever, may a lower court depart from Supreme Court precedent?**

Response: This would never be appropriate.

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

Response: If I am fortunate enough to be confirmed as a district judge, my opinion of when it would be appropriate for the Eighth Circuit to overturn its own precedent would not be relevant. If confirmed, I will carefully apply and follow Eighth Circuit precedent.

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

Response: If I am fortunate enough to be confirmed as a district judge, my opinion of when it would be appropriate for the Supreme Court to overturn its own precedent would not be relevant. If confirmed, I will carefully apply and follow all Supreme Court precedents.

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

- a. *Brown v. Board of Education***

Response: As a district court nominee, it is generally inappropriate for me to comment on whether a specific Supreme Court case was correctly decided. Like numerous nominees before me, however, I will make an exception and state unequivocally that *Brown* was correctly decided as it rightly rejected discrimination based on race.

- b. *Plyler v. Doe***

Response: *Plyler* is binding precedent. If I am fortunate enough to be confirmed as a district court judge, I would carefully follow *Plyler* and all Supreme Court precedent.

c. *Loving v. Virginia*

Response: As many nominees before me have stated, the decision in *Loving* is so canonical and deeply rooted that the correctness of the judgment is beyond question. It is binding precedent. If I am fortunate enough to be confirmed as a district judge, I will follow this and all other binding precedents.

d. *Griswold v. Connecticut*

Response: *Griswold* is binding precedent. If I am fortunate enough to be confirmed as a district court judge, I would carefully follow *Griswold* and all Supreme Court precedent.

e. *Trump v. United States*

Trump is binding precedent. If I am fortunate enough to be confirmed as a district court judge, I would carefully follow *Trump* and all Supreme Court precedent.

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

Dobbs is binding precedent. If I am fortunate enough to be confirmed as a district court judge, I would carefully follow *Dobbs* and all Supreme Court precedent.

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

Bruen is binding precedent. If I am fortunate enough to be confirmed as a district court judge, I would carefully follow *Bruen* and all Supreme Court precedent.

h. *Obergefell v. Hodges*

Obergefell is binding precedent. If I am fortunate enough to be confirmed as a district court judge, I would carefully follow *Obergefell* and all Supreme Court precedent.

i. *Bostock v. Clayton County*

Bostock is binding precedent. If I am fortunate enough to be confirmed as a district court judge, I would carefully follow *Bostock* and all Supreme Court precedent.

j. *Masterpiece Cakeshop v. Colorado*

Masterpiece Cakeshop is binding precedent. If I am fortunate enough to be confirmed as a district court judge, I would carefully follow *Masterpiece Cakeshop* and all Supreme Court precedent.

k. *303 Creative LLC v. Elenis*

303 Creative is binding precedent. If I am fortunate enough to be confirmed as a district court judge, I would carefully follow *303 Creative* and all Supreme Court precedent.

l. *United States v. Rahimi*

Rahimi is binding precedent. If I am fortunate enough to be confirmed as a district court judge, I would carefully follow *Rahimi* and all Supreme Court precedent.

m. *Loper Bright Enterprises v. Raimondo*

Loper Bright is binding precedent. If I am fortunate enough to be confirmed as a district court judge, I would carefully follow *Loper Bright* and all Supreme Court precedent.

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

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

19. How do you decide when the Constitution’s “original meaning” should be controlling?

Response: Please see my response to Question 18.

20. Does the “original meaning” of the Constitution support a constitutional right to same-sex marriage?

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

21. Does the “original meaning” of the Constitution support the constitutional right to marry persons of a different race?

Response: The Supreme Court in *Loving* ruled that a state court law that prohibited such marriages should be invalidated. I would faithfully apply that precedent.

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

Response: The Due Process Clause of the Fourteenth Amendment, among other things, applies the Bill of Rights to the states. The Equal Protection Clause ensures that states not “deny any person within its jurisdiction the equal protection of the laws.” Courts have used these provisions to evaluate the legitimacy of state actions using different levels of scrutiny depending on the circumstances, including the classification of persons or the right involved.

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

Response: The Supreme Court has applied these provisions to discrimination based on sex and sexual orientation, and I would faithfully apply those decisions if confirmed. To the extent that the question asks for further elaboration on these provisions, I cannot provide an answer consistent with my ethical obligations as a district court judicial nominee. *See* Code of Conduct for U.S. Judges, Canon 3(A)(6).

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

Response: Please see my responses to Questions 18-19 above.

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

Response: Please see my responses to Questions 18-19 above.

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

Response: The First Amendment Provides that, “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” The Supreme Court has held that these protections apply to the people and associations of individuals. *See Citizens United v. Federal Election Commission*, 558 U.S. 310 (2010). If I am fortunate enough to be confirmed as a district judge, I will carefully determine all appropriate Supreme Court precedents regarding First Amendment protections and faithfully follow them.

27. 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: I would carefully determine and apply all binding Eighth Circuit Court of Appeals precedents and all Supreme Court precedents regarding the steps for determining content-based and content-neutral speech regulations.

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

Response: I would carefully determine the appropriate precedent from the Supreme Court. In this situation, the Supreme Court has stated that “true threats are serious expressions conveying that a speaker means to commit an act of unlawful violence.” *Counterman v. Colorado*, 600 U.S. 66, 74 (2023). Such threats are a “historically unprotected category of communications.” *Id.*

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

Response: Yes, everyone within the United States is entitled to due process. The Supreme Court has an exhaustive list of precedents that outlines the level of due process that individuals are entitled to in particular circumstances.

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

Response: This question asks me to express an opinion regarding potential litigation. Therefore, I cannot provide an answer consistent with my ethical obligations as a district court judicial nominee. *See* Code of Conduct for U.S. Judges, Canon 3(A)(6).

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

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

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

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

Response: Yes. Demographic and professional diversity on the federal bench is important because no individual should be excluded from the opportunity to serve as a district judge based on race, ethnicity, religion, sex, or any other protected characteristic. Selecting highly qualified individuals from a wide range of backgrounds enhances public confidence in the judiciary, promotes respect for the rule of law, and ensures that the courts benefit from varied perspectives and experiences.

33. 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: If I am fortunate enough to be confirmed as a district judge, I would carefully apply the provisions of the First Step Act fairly and impartially as I would any other enacted law of the United States.

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

Response: Yes, it is vitally important for a district court judge to fashion sentences that are tailored to the individual circumstances of each case according to 18 U.S.C. §3553(a) and all binding legal precedents.

34. 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. **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: No, not to the best of my knowledge.

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

Response: No.

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

Response: No.

35. 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: No, not to the best of my knowledge.

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

Response: No.

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

Response: No.

36. 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: No, not to the best of my knowledge.

- 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.

- 37. 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: No, not to the best of my knowledge.

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

Response: No.

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

Response: No.

- 38. 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: No, not to the best of my knowledge.

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

Response: No.

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

Response: No.

39. 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: No, not to the best of my knowledge.

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

Response: No.

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

Response: No.

40. 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: No, not to the best of my knowledge.

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

Response: No.

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

Response: No.

- 41.** 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: No, not to the best of my knowledge.

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

Response: No.

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

Response: No.

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

Response: I am not familiar with these organizations nor am I aware of any of these organizations supporting my nomination in any way. The question of whether I would find such donations to be problematic would require me to make statements about policy or legal conclusions, as such it would be inappropriate for me to answer under the Code of Conduct for United States Judges.

- e. If you learn of any such donations, will you commit to call for the undisclosed donors to make their donations public so that if you are confirmed you can have this information when you make decisions about recusal in cases that these donors may have an interest in?**

Response: I am unaware of any such donations. However, I will carefully follow all of the legal requirements for financial disclosures outlined in the United States Federal Code and in the Judicial Code of Conduct. I will also carefully follow all of the appropriate procedures for identifying potential appearances of conflicts and recusal from all cases when necessary.

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 answers to Questions 41(a)-(e).

Nomination of David Clay Wilkerson Fowlkes
Nominee to the United States District Court for the Western District of Arkansas
Questions for the Record
Submitted November 26, 2025

QUESTIONS FROM SENATOR WHITEHOUSE

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

1. The U.S. Marshals Service is responsible for ensuring the safety of federal judges, including investigating threats against judges. In a threat investigation, would you expect the U.S. Marshals and FBI to investigate any party they have reason to believe is complicit or culpable, including under RICO and conspiracy statutes, in addition to the individual who made the threat?

Response: Yes.

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

Response: No.

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

- a. Leonard Leo?
- b. Anyone affiliated with an entity led or funded by Leonard Leo?
- c. Carrie Severino?
- d. Mike Davis?
- e. Anyone affiliated with The Article III Project?

Response: No.

Senate Judiciary Committee
Nomination Hearing
November 19, 2025
Questions for the Record
Senator Amy Klobuchar

For David Fowlkes, to be U.S. District Judge for the Western District of Arkansas

1. You stated that you received special permission from the Justice Department to provide pro bono representation to families working to finalize adoptions. As co-chair of the Congressional Coalition on Adoption Caucus, I have worked to assist families navigating the adoption process to ensure every child has a safe, loving, and permanent home.

- How did you get involved in pro bono work related to adoption and what did you learn from this experience?

Response: I became involved in pro bono work because I felt a deep calling to serve others. My involvement began when I learned about a couple in our church, First Baptist Church in Fayetteville, Arkansas, who were struggling to finalize an international adoption. After hearing their testimony in our Sunday School class, I volunteered to assist them with the legal process so they could reduce expenses during a critical time for their family. Through that experience, I gained valuable knowledge of Arkansas adoption law, which later proved unexpectedly beneficial when I prosecuted the first human trafficking case involving the Marshallese community in Western Arkansas.

2. Justice Scalia said that our Constitution separates powers to “prevent the centralization of power in one person, or one party.” In other countries, where power is centralized in one person, “the game is over” for rights.

- Do you agree with Justice Scalia regarding the importance of separation of powers?

Response: Yes, I agree with Justice Scalia regarding the critical importance of the separation of powers. The system established in the Constitution is a foundational principle of our democracy and was intentionally designed to prevent the concentration of power in any single person or branch of government. Through the structure of checks and balances, each branch is given both authority and limitations, ensuring accountability and safeguarding individual liberty. By dispersing power among the legislative, executive, and judicial branches, our Constitution helps preserve the freedoms that define our nation.

**Nomination of David Fowlkes to the
United States District Court for the Western District of Arkansas
Questions for the Record
Submitted November 26, 2025**

QUESTIONS FROM SENATOR COONS

1. Do you believe that the Senate Judiciary Committee has a responsibility to evaluate judicial nominees to the best of its ability, including by asking questions on the record to make each nominee's unique background and viewpoint clear to the American people?

Response: Yes, I believe the Senate Judiciary Committee has a responsibility to fairly and thoroughly evaluate judicial nominees.

2. Do you believe that you, as a judicial nominee, have a responsibility to the American people to give full and complete answers to the Committee's questions to the best of your ability and in good faith?

Response: Yes.

3. Do you believe you fulfilled this responsibility with the answers you have provided to my questions for the record?

Response: Yes.

- a. Did you receive assistance from staff in the White House, the Department of Justice, or any other organization in writing your responses to these questions? If so, from whom did you receive assistance and what was the nature of the assistance you received?

Response: I reviewed the responses of numerous prior nominees before preparing my answers to these questions. I initially drafted each response myself. After receiving feedback from individuals in the Office of Legal Policy at the U.S. Department of Justice, I finalized my answers and authorized their submission to this Committee. These answers reflect my own views.

- b. Do you believe it is appropriate for a nominee to answer my questions for the record with the verbatim answers of previous nominees who answered the same questions?

Response: Certain questions may admit of only one complete and correct answer. In such circumstances, it is appropriate for a nominee's response to be the same as that of previous nominees, provided the answer is accurate and complete.

- c. Did you review the answers to my questions for the record submitted by previous judicial nominees before answering these questions?

Response: Please see my response to question 3(a).

- d. To your knowledge, are any of your answers to these questions for the record exact duplicates of answers provided by previous nominees?

Response: Please see my response to question 3(a).

4. 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 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.

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

Response: Benton County Circuit Court Judge (retired) David S. Clinger.

6. How would you describe your judicial philosophy?

Response: My judicial philosophy is to try my very best to determine the appropriate law, correctly determine the facts of each case, and apply the facts and the law to correctly determine the appropriate ruling. I would also include that every person who appears before the court should be treated with respect, dignity, and equal justice.

7. 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: The first step with regard to substantive due process analysis is to determine whether the right is “fundamental.” I would follow Eighth Circuit and Supreme Court precedent to make that determination.

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

Response: Yes, but it is also important to consider the enumerated rights language in the Ninth Amendment to the Constitution.

- 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, to make this determination I would carefully consult Eighth Circuit precedent and Supreme Court precedent.

- 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, please see my response to Question 7(b). Further, other court of appeals precedents would be persuasive, but not binding.

- 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: Please see my responses above. The most important considerations are Eighth Circuit and Supreme Court precedents.

8. If you concluded that the President had violated his constitutional duty to faithfully execute the laws and then had to determine the remedy, what process would you use to perform that analysis? I assume you would faithfully follow binding precedent, but what specific precedents and/or other sources of law would you look to?

Response: As a district court judge nominee, I do not think that it would be appropriate for me to address the potential remedies in an abstract hypothetical scenario. Further, it would be inappropriate for me to answer this question as it may call for political commentary. See Code of Conduct U.S. Judges, Canon 5.

9. Is President Trump eligible to be elected President for a third term in 2028? Assume that I know what the text of the 22nd Amendment says. I am interested in your application of that text to whether or not President Trump can be elected President in 2028.

Response: According to the 22nd Amendment to the United States Constitution, no person shall be elected to the office of President more than twice.

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

Response: Congress certified President Trump as the winner of the 2016 Presidential Election.

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

Response: Congress certified President Biden as the winner of the 2020 Presidential Election.

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

Response: Congress certified President Trump as the winner of the 2024 Presidential Election.

13. If Congress certifies a candidate as being the winner of a presidential election, does that mean that the candidate won the election? If not, what does it mean?

Response: Congress's role under the law is to formally count and certify the electoral votes submitted by the states. Certification reflects that the states' electors have voted, and the votes have been received and counted. To the extent this question seeks to elicit an answer that could be taken as issuing an opinion on the political debate surrounding these elections, it would be improper for me to issue a response as that would potentially violate the judicial canons.

14. Under 28 U.S.C. § 455, "[a]ny justice, judge, or magistrate judge of the United States shall disqualify [themselves] in any proceeding in which [their] impartiality might reasonably be questioned." As a general matter, what criteria would you use when deciding whether to recuse yourself from a case?

Response: Yes, I would recuse myself from any cases in which my impartiality might be questioned. In so doing, I would carefully follow the Code of Conduct for United States Judges.

15. I have been proud to co-lead the bipartisan *Safer Supervision Act*, a bill to reform our federal supervised release system that has received substantial conservative and law enforcement support. The premise of the bill is that our federal supervision system has strayed far from how Congress designed it, as courts impose it mechanically in essentially every case, which means that probation officers do not have time to properly supervise those who most need it. The bill reinforces courts' existing obligations under 18 U.S.C. §§ 3553 and 3583 to impose supervision as warranted by the individual facts of the case and encourages more robust use of early termination when warranted to provide positive incentives encouraging rehabilitation. At the encouragement of a bipartisan group of members of Congress, the U.S. Sentencing Commission adopted an amendment to supervision guidelines implementing certain parts of the bill; this amendment went into effect on November 1.

- a. As a sentencing judge, would you endeavor to impose supervision thoughtfully and on the basis of the individual facts of the case consistent with 18 U.S.C. § 3553 and 18 U.S.C. § 3583?

Response: Yes.

- b. Would you agree that the availability of early termination under 18 U.S.C. § 3583(e)(1) can provide individuals positive incentives to rehabilitate?

Response: Yes, I believe this could be very beneficial in certain cases.

- c. Will you commit if confirmed to reviewing the *Safer Supervision Act* and the recent Sentencing Commission amendment and considering them as you develop your approach to sentencing of supervised release?

Response: Yes.

- 16. If you had to determine whether it is appropriate for the President of the United States to punish a law firm for taking on a client that the President did not like, what process would you use to perform that analysis? I assume you would faithfully follow binding precedent, but what specific precedents and/or other sources of law would you look to?

Response: This question seeks me to address a hypothetical, but one that addresses potentially ongoing litigation. As such, it would be inappropriate for me as a judicial nominee to answer this question. *See* Code of Conduct for U.S. Judges, Canon 3(A)(6).

- 17. Do you agree that the constitutional right to travel across state lines is fundamental and well established?

Response: Yes.

- a. If you had to determine whether it is constitutional for a state to restrict the interstate travel of its citizens, what process would you use to perform that analysis? I assume you would faithfully follow binding precedent, but what specific precedents and/or other sources of law would you look to?

Response: This question seeks me to address a hypothetical, but one that addresses potentially ongoing litigation. As such, it would be inappropriate for me as a judicial nominee to answer this question. *See* Code of Conduct for U.S. Judges, Canon 3(A)(6).

- 18. Do you believe that the Constitution protects a fundamental right to privacy?

Response: While the Constitution does not have a specifically enumerated right to privacy, the Supreme Court has recognized a right to privacy in certain circumstances.

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

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

19. Does the public's original understanding of the meaning of a constitutional provision constrain its application decades or centuries later?

Response: If confirmed, I would begin any constitutional analysis by applying binding Supreme Court and Eighth Circuit precedent. Where no controlling precedent exists, the clear and unambiguous meaning of the constitutional text would control. If further interpretation is required, I believe it is appropriate to look to the public meaning of the constitutional language as it was understood at the time of adoption.

- a. What specific sources would you employ to discern the public's original understanding of the meaning of a constitutional provision? Please provide three examples of sources you consider reliable in this regard.

Response: Please see my response to Question 19 above. I believe the most important process is to determine binding Supreme Court and Eighth Circuit precedent. Other reliable sources for discerning the public's original understanding of a constitutional provision include the text of the Constitution itself, contemporaneous legal materials, and records of public debate contemporaneous with ratification.

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

Response: I strongly believe that a federal judge should adjudicate all claims regardless of the identity of the party. Further, I believe that the Constitution provides that all individuals, regardless of immigration status, are entitled to due process and a fair adjudication of their claims. The Constitution (through the fifth and fourteenth amendments) and various federal laws establish fundamental procedural protections that apply to everyone within the United States. Ensuring that each person's claims are heard and adjudicated fairly upholds the rule of law, maintains public confidence in our justice system, and reflects the principle that justice must be administered impartially and without regard to status or background. Further, the Supreme Court has an extensive body of precedents regarding due process that I would faithfully apply if I am confirmed.

21. Should you be confirmed, what would you do if a party refuses to comply with one of your orders?

Response: This question seeks me to address a hypothetical, but one that addresses potentially ongoing litigation. As such, it would be inappropriate for me as a judicial nominee to answer this question. *See* Code of Conduct for U.S. Judges, Canon 3(A)(6).

22. What criteria would you use to determine whether a party was engaging in abusive litigation tactics, such as excessive discovery requests, repeatedly or frivolously filing motions, or other procedural delays?

Response: I would seek to effectively and fairly apply the Federal Rules of Civil Procedure, including Rule 26, which governs discovery. While several rules provide guidance for the discovery process, the federal district court judge has wide latitude to facilitate the discovery process. I would seek to engage in an evaluation of the entirety of the litigation to determine if motions were frivolous and only filed to seek delay or harassment.

- a. If you determined that a party was engaging in such tactics, how would you address it?

Response: I would again seek to fairly apply the Federal Rules of Civil Procedure, including Rule 11, which provides for sanctions for parties engaging in such practices.

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

Response: I feel strongly that a federal judge should impartially apply the laws and facts in every case. In some circumstances, the practical consequences of an order could play a factor, however, such considerations should be inferior to a fair application of the laws and facts.

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

Response: A judge's personal life experience may contribute to the development of qualities such as patience, discernment, and sound judgment. Nevertheless, a judge's primary duty is to fairly and impartially apply the law to the facts of each case, independent of personal background or views.

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

Response: Empathy is an important part of treating all parties with respect and dignity.

26. What case or legal matter are you most proud of having worked on during your career?

Response: I have devoted my career to public service as a prosecutor in both state and federal courts. It is difficult to single out one case as the one I am most proud of. The cases that have been most meaningful to me are those where our work directly improved community safety. This includes the drug trafficking cases I have prosecuted, as well as cases involving human trafficking and child exploitation. In each instance, I take pride in

knowing that our efforts helped protect vulnerable individuals and strengthen the safety and well-being of the communities we serve.

27. Some district court judges have issued standing orders indicating that the court will favor holding an oral argument when there is a representation that the argument would be handled by a junior lawyer. Such efforts are intended to provide more speaking opportunities in court for junior lawyers. Would you consider issuing a standing order that would encourage more junior lawyers to handle oral arguments? Why or why not?

Response: Yes, I would consider implementing a standing order or policy that encourages junior lawyers to handle oral arguments. As a young lawyer, I would have greatly valued such opportunities, and I believe it is important to support initiatives that help develop the next generation of trial lawyers. Providing meaningful courtroom experience not only strengthens individual skills but also contributes to the overall effectiveness and professionalism of the legal community.

- a. How else would you support the skills development of junior lawyers appearing before you?

Response: I believe the Criminal Justice Act appointments are a great opportunity for junior lawyers to make more court appearances, make more oral arguments, and help develop important courtroom skills.

28. Discuss your proposed hiring process for law clerks.

Response: I would seek to initiate a fair process to find the very best candidates for these important roles. I would also seek to consult with my colleagues about their experiences and interviewing practices that have been effective in their courtrooms.

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

Response: As a district court judicial nominee, I do not think it is appropriate for me to provide an opinion on whether or not Title VII of the Civil Rights Act should apply to law clerks and other court staff.

29. Recently, 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: I have served on the management team in Western Arkansas for many years. I have always treated others with respect and dignity. I have handled numerous complaints and investigations. Through all of this, I have learned to necessity and importance to ensure that others are treated with respect in all ways and that misconduct is handled appropriately.

- 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: I would determine what resources are available to judicial staff and ensure that access to these programs are available to all staff.

- 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: I would immediately raise the issue with the chief judge in our district and the federal judicial conference.

30. 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: My response to this question would require me to express an opinion on political matters or potential future cases. Therefore, I cannot provide an answer consistent with my ethical obligations as a district court judicial nominee. See Code of Conduct for U.S. Judges, Canon 3(A)(6).

- a. If you think this question would require you to express an opinion on “political” matters, as some judicial nominees have responded when asked this question, please explain why labeling the events of January 6, 2021, as either “an insurrection” or “not an insurrection” requires you to opine on a “political” matter.

Response: The public controversy and constant discourse over the labeling of this event make it a political issue that would be inappropriate for to comment on.

31. As you know, the President has the power under the Constitution to grant executive clemency relief. Even so, in your opinion, do you think the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021, deserved to be pardoned? I am asking for your opinion about whether the pardons were prudent, not whether the President has the authority to issue them.

Response: My response to this question would require me to express an opinion on political matters or potential future cases. Therefore, I cannot provide an answer consistent with my ethical obligations as a district court judicial nominee. See Code of

Conduct for U.S. Judges, Canon 3(A)(6).

32. If you were the President on January 20, 2025, would you have pardoned the individuals convicted of assaulting law enforcement officers at the Capitol on January 6, 2021? Again, I know that the President has the power under the Constitution to grant executive clemency relief. I want to know whether you—if serving as President on January 20, 2025—would have chosen to issue pardons to those convicted of assaulting law enforcement officers at the Capitol on January 6, 2021.

Response: My response to this question would require me to express an opinion on political matters or potential future cases. Therefore, I cannot provide an answer consistent with my ethical obligations as a district court judicial nominee. See Code of Conduct for U.S. Judges, Canon 3(A)(6).

33. At your Senate Judiciary Committee nomination hearing, Senator Moody said, “I’m really concerned right now that the judicial branch has a PR crisis . . . because we have many district court judges around the nation that are more interested in wearing a blue jersey than a black robe. . . . Based on my fundamental belief we have to have impartial judges that will faithfully apply the laws that are given to them, I believe this . . . fundamentally disrupts the carefully balanced powers set forth in our Constitution.” She then asked you if you agreed and you replied that you did.

- a. Because you said you agreed with Senator Moody’s statement, which district court judges do you believe are “more interested in wearing a blue jersey than a black robe”?

Response: To clarify, I agreed that our nation needs to have judges who are impartial and will faithfully apply the laws that are given to them. Any further comment on the political views of others would be inappropriate for me to make as a judicial nominee.

- b. What specific action(s) did each judge take to make you form that belief?

Response: Please see my response to Question 33(a).

Senator Mazie K. Hirono
Senate Judiciary Committee

Nomination Hearing
Questions for the Record for David Wilkerson Fowlkes

1. The Western District of Arkansas is home to the highest concentration of Marshallese people outside of Hawaii. In 2024, you joined a roundtable discussion with this community, discussing human trafficking. **What have you learned about the unique challenges facing this community? And, if confirmed, how will your experience working with this community in your district inform your work as a federal judge?**

Response: During my service as an Assistant United States Attorney and later as the United States Attorney in Western Arkansas, I had the opportunity to learn a great deal about the Marshallese community, an experience I deeply value. I prosecuted the first federal human trafficking case in which the victims were members of the Marshallese community in Western Arkansas and elsewhere, United States v. Petersen. During that case, I traveled to the Marshall Islands to interview witnesses and prepare for trial. That experience gave me a far deeper understanding of both the cultural background of the community and the unique challenges its members face.

Those challenges include adapting to life in a new and unfamiliar culture, raising families far from their homeland, navigating language and economic barriers, and striving to preserve cultural identity and traditions while building new lives in the United States. Seeing these realities firsthand reinforced for me how vulnerable certain communities can be to exploitation, particularly when they encounter systems they do not fully understand or trust.

If confirmed, my experience working closely with the Marshallese community will inform my work as a federal judge by reinforcing the importance of careful, thoughtful consideration of the full context in every case. It has deepened my commitment to ensuring that all individuals who come before the court—regardless of background, culture, or circumstance—are treated with fairness, dignity, and equal justice under the law. While all of my experiences as a prosecutor will shape my judicial service, the lessons I learned through the Petersen case will remain among the most meaningful.

Nomination of David Clay Fowlkes
United States District Court for the Western District of Arkansas
Questions for the Record
Submitted November 26, 2025

QUESTIONS FROM SENATOR BOOKER

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

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

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

Response: It would not be appropriate for me, as a judicial nominee, to issue an opinion on the statements of any political figure or on any subject of political controversy. This would be in conflict with Judicial Code of Conduct Cannon 5.

2. If this Committee were to establish that a sitting federal judge knowingly provided false testimony to this Committee, what do you believe the appropriate process and consequences should be?

Response: Such a situation would require an investigation into whether sufficient proof exists to demonstrate that a sitting federal judge knowingly provided false testimony under oath. This investigation would likely be conducted by the Federal Judicial Conference. If a thorough, impartial, and fair investigation did provide such proof, then the appropriate judicial disciplinary procedures should be implemented.

3. If this Committee were to establish that a political appointee knowingly provided false testimony to this Committee, what do you believe the appropriate process and consequences should be?

Response: To establish that a political appointee knowingly provided false testimony, a thorough, fair, and impartial investigation would have to return strong evidence that false testimony was knowingly presented. If such an investigation did return such evidence, then the appropriate administrative procedures for dealing with misconduct should be

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

initiated. Typically, this involves the particular agency's general counsel and/or the office of the Inspector General.

4. How would you characterize your judicial philosophy?

Response: I would seek to be a fair and impartial judge who treats all those who appear before the court with respect, dignity, and equal justice. I would seek to properly determine the law and properly establish the true facts. Finally, I would apply both to each individual case to determine the proper, just, fair, and impartial outcome.

5. What do you understand originalism to mean?

Response: Originalism is a method of constitutional interpretation. The originalism method focuses on the original public meaning of constitutional provisions in order to properly interpret how the law applies.

6. Do you consider yourself an originalist?

Response: Yes. As noted by other nominees, the Supreme Court has repeatedly interpreted constitutional provisions by discerning the original meaning of the words used as understood by the public at the time of the Founding. As a district court judge, I would follow all applicable Supreme Court and Eighth Circuit precedent in interpreting constitutional provisions, including those originalist precedents.

7. What do you understand textualism to mean?

Response: Textualism is a method of interpreting law. This particular method focuses on the text as it is written, with the meaning it had at the time of its enactment. This method and originalism are best understood as "two sides of the same coin," in that they are closely related.

8. Do you consider yourself a textualist?

Response: Generally, yes. However, I would follow the instructions contained in precedents of the Supreme Court, especially those regarding statutory review. These would include the instruction that the best meaning of statutory text, assessed at the time of enactment, is generally entitled to the greater weight.

9. Please provide an example of a federal judge, or judges, whose jurisprudence you most agree with. Why?

Response: I agree with previous nominees in that I think that providing examples of judges whose jurisprudence I most agree with would be akin to me taking a position on which cases are rightly or wrongly decided. As a district court judicial nominee, I think it would be inappropriate for me to do so. If confirmed as a district judge, I will faithfully apply all binding Supreme Court and Eighth Circuit precedent.

10. What is your view of stare decisis?

Response: Stare decisis is a legal doctrine that guides courts to stand by decisions and rulings previously decided. It is routinely applied by federal courts.

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

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

Response: Although legislative history may sometimes provide helpful context, it must be used cautiously, as it has not undergone the constitutional processes of bicameralism and presentment. If confirmed as a district court judge, I would begin by applying binding precedent from the United States Supreme Court and the Eighth Circuit. When controlling authority exists, it would guide the interpretation of the statute. In the absence of such precedent, I would give effect to the clear and ordinary meaning of the statutory text.

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

Response: Please see my response to question 10(a).

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

- a. What do you attribute this to?

Response: While I am not familiar with this study, if confirmed as a District Court Judge, I will commit to treating every person who appears before the court with respect, fairness, impartiality, and ensure the equal application of justice to everyone.

- b. Do you believe the law should address the effects of disparate impact?

Response: Please see my answer to question 12(a). Additionally, 18 U.S.C. Section 3553(a) provides, in part, that any sentence imposed should avoid unwarranted sentencing disparity. If I am fortunate enough to be confirmed as a district court judge, I will carefully follow all of the sentencing considerations contained in the United States Code.

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

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

a. What do you attribute this to?

Response: If confirmed as a district judge, I would strive to faithfully, fairly, and impartially apply the law in every case, while carefully considering the individual circumstances of each defendant consistent with governing legal standards. Additionally, 18 U.S.C. Section 3553(a) provides, in part, that any sentence imposed should avoid unwarranted sentencing disparity. If I am fortunate enough to be confirmed as a district court judge, I will carefully follow all of the sentencing considerations contained in the United States Code.

14. 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: If confirmed as a district judge, I would strive to faithfully, fairly, and impartially apply the law in every case, while carefully considering the individual circumstances of each defendant consistent with governing legal standards.

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

Response: As a district court judicial nominee, I do not think it is appropriate for me to comment on the diversity goals of the executive branch.

16. Do you believe demographic diversity is an important goal in the legal profession? Why or why not.

Response: No one should be excluded from the legal profession based on characteristics like sex, race, or ethnicity. I have learned from my personal experience as a member of the management team in Western Arkansas that lawyers with different backgrounds can contribute different and valuable perspectives in all forms of litigation.

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

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

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

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

Response: During my service as United States Attorney over the past five years, I have issued press releases and made public statements in my official capacity concerning matters such as illegal firearm possession, immigration enforcement, and civil rights enforcement. It is my understanding that these official statements were referenced in my Senate Judiciary Questionnaire. Aside from those statements made in my official capacity as a Department of Justice employee, I do not recall authoring any articles or making additional public statements on these subjects.

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

Response: Ordinarily, in the absence of a stay, all parties in a case must obey court orders. Some limited exceptions have been recognized such as when a court lacks subject matter jurisdiction or it is impossible to comply with the order.

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

Response: If any party defied a court order, I would consult the Federal Rules of Criminal and Civil Procedure as well as binding precedent from the Supreme Court and the Fifth Circuit. I do not believe that further elaboration on the analysis that I would use would be appropriate as this matter could come before me if I am confirmed as a district judge.

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

Response: Please see my response to question 18.

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

Response: This question asks me to express an opinion on an issue regarding ongoing or potential litigation. Therefore, I cannot provide an answer consistent with my ethical obligations as a district court judicial nominee. *See* Code of Conduct for U.S. Judges, Canon 3(A)(6).

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

Response: Please see my response to Question 19.

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

Response: Please see my response to Question 19.

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

Response: Yes.

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

Response: Yes.

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

Response: I believe this question is related to the "major questions doctrine." This is a doctrine that provides that such delegations should be limited and specific. *See West Virginia v. Environmental Protection Agency*, 597 U.S. 692 (2022). Further discussion on this topic would require me to express an opinion on an issue regarding ongoing and potential litigation. I cannot provide an answer consistent with the ethical obligations of a district court judicial nominee. *See* Code of Conduct for U.S. Judges, Canon 3(A)(6).

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

Response: Just as other nominees for judicial office have done, I can confirm that *Brown* was rightly decided consistent with the Judicial Code of Conduct. This is because *Brown* is a

landmark civil rights case that rejected the separate-but-equal analysis. In general, the Judicial Code of Conduct prohibits a judicial nominee from grading previous decisions of the Supreme Court. *Brown* is one of two exceptions to this general prohibition that other nominees have noted.

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

Response: *Griswold* is binding precedent, and I would faithfully follow it, and all other Supreme Court precedents, if confirmed to be a district court judge. In *Griswold*, the Supreme Court held that the Fourteenth Amendment protects the use of contraceptives.

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

Response: *Lawrence* is binding precedent, and I would faithfully follow it, and all other Supreme Court precedents, if confirmed to be a district court judge. In *Lawrence*, the Supreme Court held that a state law criminalizing sexual conduct between two consenting adult males was unconstitutional.

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

Response: *Obergefell* is binding precedent, and I would faithfully follow it, and all other Supreme Court precedents, if confirmed to be a district court judge. 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.

29. 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: Congress certified Joe Biden as the winner of the 2020 election, and he served as the 46th President of the United States.

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

Response: Please see my response to Question 29.

- 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: There was litigation concerning the outcome of the 2020 Presidential election. As a judicial nominee, it would be inappropriate for me to provide a personal view of the outcome of the election.

30. The 22nd Amendment says that “no person shall be elected to the office of the President more than twice.”⁴

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

Response: Congress certified President Trump as the winner of the 2016 election, and he served as the 45th President of the United States.

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

Response: Please see my response to question 30(a).

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

Response: Congress certified President Trump as the winner of the 2024 election, and he is serving as the 47th President of the United States.

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

Response: Please see my response to question 30(c).

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

Response: The 22nd Amendment provides that “[n]o person shall be elected to the office of President more than twice”

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

Response: In preparation for my confirmation hearing, I reviewed numerous past hearings and observed a consistent practice of judicial nominees declining to offer opinions on whether Supreme Court decisions were correctly decided. I also received general guidance from the Department of Justice’s Office of Legal Policy. Based on that preparation, as well as my review of the judicial Canons, I concluded that it would be inappropriate for a district court nominee to express personal views on the correctness of Supreme Court decisions.

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

Response: No.

⁴ U.S. CONST. amend. XXII.

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

Response: No.

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

Response: No.

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

Response: No.

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

Response: No.

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

Response: In my capacity as the United States Attorney for the Western District of Arkansas, I have participated in group video conference calls with Deputy Attorney General Blanche. I do not recall speaking to the Deputy Attorney General during those calls.

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

Response: In my capacity as the United States Attorney for the Western District of Arkansas, I have participated in group video conference calls with Emil Bove when he was employed by the Department of Justice. I do not recall speaking to Mr. Bove during those calls.

39. 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.

40. 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.

41. 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.

42. 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.

43. 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.

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

- a. Do you agree with the above statement?

Response: I have no familiarity with this organization or this statement. As a district

⁵ <https://www.article3project.org/about>

court nominee, it is inappropriate for me to comment on the political statements of others.

- 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: No.

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

Response: No.

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

Response: No.

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

Response: No.

- a. If so, who? What advice did they give?
- b. Did anyone suggest that you omit or include any particular case or type of case in your SJQ?

Response: No.

- 46. 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: No.

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

Response: No.

- 48. Please explain, with particularity, the process whereby you answered these written questions, including whether you personally drafted initial responses and whether anyone helped draft, review, or edit the answers.

Response: I reviewed responses of numerous prior nominees before answering these questions. I drafted my responses to each of these questions. After receiving feedback from persons at the Office of Legal Policy at the U.S. Department of Justice, I finalized my answers and authorized them to be submitted to this Committee. My answers are my own.