

Senator Dick Durbin
Ranking Member, Senate Judiciary Committee
Written Questions for Jason Manion
Nominee to be a Member of the United States Sentencing Commission
August 19, 2026

1. The Sentencing Guidelines are extremely complex and technical, which is why Commissioners have traditionally been long-serving judges, Assistant U.S. Attorneys, and federal public defenders. Yet, you graduated from law school nine years ago and have only been practicing for seven years—at most. You have never tried a case as sole or chief counsel to verdict or judgment in a trial court.

Given your limited experience, why should we believe that you will be prepared for this position?

Response: My federal prosecution experience, combined with my additional high-level experience in all three branches of federal government, state government, and private practice, has prepared me well to serve as a Commissioner on the U.S. Sentencing Commission. I served as an Assistant United States Attorney, where I handled dozens of criminal appeals, including many of my office’s most complex criminal sentencing issues under the U.S. Sentencing Guidelines and various federal statutes. As just one example, I argued on behalf of the United States before an eighteen-judge *en banc* panel of the U.S. Court of Appeals for the Sixth Circuit in a complicated sentencing case that resolved an intra-circuit split about whether various Ohio robbery offenses qualified as “crimes of violence” under U.S. Sentencing Guideline § 4B1.2. I have also handled several contested Sentencing Guidelines issues at criminal sentencings in district court.

2. On July 4, 2022, a gunman opened fire on an Independence Day parade in Highland Park, Illinois, leaving seven dead and dozens injured. He used a semi-automatic rifle to carry out his attack. Six months later, the State of Illinois enacted the *Protect Illinois Communities Act*, criminalizing the possession and sale of assault weapons and large-capacity magazines. In *Barnett v. Raoul*, you coauthored an amicus brief in opposition to the Act, arguing that legislatures may not ban a class of weapons because they are deemed “militaristic.” The Seventh Circuit rejected your argument, holding that such restrictions are consistent with our nation’s tradition of firearm regulation.

Do you believe that weapons like semi-automatic rifles are more commonly used for self-defense rather than for mass shootings?

Response: As the United States’ amicus brief in *Barnett v. Raoul* explained, the Supreme Court has held in a unanimous opinion that “[t]he AR-15 is the most popular rifle in the country,” and is “both widely legal and bought by many ordinary customers.” *Smith & Wesson Brands, Inc. v. Estados Unidos Mexicanos*, 605 U.S. 280, 297 (2025). The brief also cited statements from Justice Thomas that the “overwhelming majority” of AR-15 owners use them “for lawful purposes, including self-defense and target shooting,” *Snope v. Brown*, 145 S. Ct. 1534, 1536 (2025) (Thomas, J., dissenting from the denial of certiorari), and from Justice Kavanaugh that

law-abiding citizens use AR-15s “for a variety of lawful purposes, including self-defense in the home,” *id.* at 1534 (statement of Kavanaugh, J., respecting the denial of certiorari).

However, the issue in *Barnett v. Raoul* remains in active litigation, including at the U.S. Supreme Court and in other cases in which the U.S. Department of Justice is involved. It would therefore be inappropriate for me to provide my personal views on this topic.

3. The U.S. Sentencing Commission (Commission or USSC) is an independent policy-making body within our independent judicial branch. You are currently employed at the White House Counsel’s office.

a. If you are confirmed, will you continue to work at the White House while you serve on the Commission?

Response: As indicated in my Questionnaire, I intend to maintain outside employment while serving as a part-time Commissioner on the U.S. Sentencing Commission. I do not know for how long my current assignment at the White House will overlap with my intended service on the Commission, if at all. Regardless, if I am confirmed to this position, I will serve on the Sentencing Commission as my own person, not as a representative of the U.S. Department of Justice or the White House. In executing my duties on the Commission, I intend to work collaboratively with the bipartisan slate of Commissioners who currently serve on the Commission, consult with the Commission’s expert staff, and consider all relevant data, research, and input from all interested parties.

b. If so, what steps will you take to ensure that your work on the Commission remains independent and uninfluenced by the President’s policy preferences, and by your ongoing work with the White House Fraud Task Force?

Response: See my response to Question 3(a).

4. The U.S. Sentencing Commission consists of seven members from both political parties appointed by the President and two *ex officio*, nonvoting members—the Attorney General or a designee and the U.S. Parole Commission chair. However, unlike most state sentencing commissions, the federal Commission lacks a representative from a public defender background who would provide an essential perspective on the criminal justice system. Earlier this year, Senator Booker and I introduced the *Sentencing Commission Improvements Act*, legislation that would add a nonvoting member with a public defender background to the U.S. Sentencing Commission.

a. Do you support legislation that would create a public defender *ex officio* position?

Response: I defer to Congress and the President on this question. If Congress passes such legislation and the President signs it into law, I would welcome the participation of a nonvoting member with a public-defender background.

b. If Congress does not act on this issue, what steps will you take to ensure that public defenders have equal access to the Commissioners, and that the Justice Department does not have outsized influence in the creation of new guideline provisions?

Response: The U.S. Sentencing Commission welcomes public comments from all interested parties on its priorities and on proposed amendments, and routinely receives such comments from the defense bar. My understanding is that the Commission also currently solicits additional input from the defense bar, including the public-defender community, outside the ordinary notice-and-comment process. If confirmed, I would of course welcome continued engagement from the defense bar and would work with my colleagues on the Commission to identify appropriate ways to ensure continued engagement.

5. The Sentencing Guidelines contain several enhancements that do not have a *mens rea* requirement—they apply regardless of whether a person had knowledge of the fact triggering the enhancement, effectively rendering them strict liability enhancements.

a. What is your view on the role of *mens rea* in criminal sentencing?

Response: My view is that sentencing judges should consider all relevant information, including *mens rea*, at sentencing. Congress has instructed sentencing judges to consider several enumerated factors at sentencing, including “the nature and circumstances of the offense,” and “the seriousness of the offense,” and what punishment is “just ... for the offense.” See 18 U.S.C. § 3553(a)(1), (2)(A). A defendant’s *mens rea* is part of the nature and circumstances of the offense and should inform a sentencing judge’s analysis under multiple of the enumerated Section 3553(a) factors.

Beyond that, it would be inappropriate for me to prejudge possible amendments to the U.S. Sentencing Guidelines. If Congress believes such an amendment is necessary, I will of course faithfully implement any Guidelines amendments required by legislation passed by Congress and signed into law by the President. Otherwise, I will work with my colleagues on the Commission to identify appropriate amendments, with input from all interested parties.

b. Would you support amending the guidelines to include *mens rea* requirements for those enhancements that currently lack such a requirement?

Response: See my response to Question 5(a).

6. A wealth of empirical social science research has demonstrated that longer prison sentences provide minimal deterrent effect; do not increase public safety; and in some cases, actually increase the rate of reoffending.

How will this research on deterrence impact your work on the Commission if you are confirmed?

Response: Deterrence is a primary goal of sentencing. And one of the U.S. Sentencing Commission’s valuable roles is to collect and analyze data on various sentencing issues, including deterrence, for the benefit of all interested parties, including Congress, district judges, and the Commission itself. If I am confirmed to this position, I will strive to ensure that the Sentencing Guidelines recommend sentences that are “sufficient, but not greater than necessary,” to “afford adequate deterrence to criminal conduct” in the ordinary case. *See* 18 U.S.C. § 3553(a)(2)(B). In doing so, I intend to consider all relevant data and research.

7. Did President Trump lose the 2020 election?

Response: On January 7, 2021, Congress certified that Joseph Biden won the majority of electoral votes. Joseph Biden thereafter served as the 46th President of the United States.

8. You represented former Secretary of Labor Eugene Scalia in his interview before the Select Committee to Investigate the January 6th Attack on the U.S. Capitol. In the interview, Scalia stated that “I had been bothered for some time by the President’s failure to acknowledge what was clearly the outcome of the election. That had bothered me. And I believed that he should acknowledge that he had not prevailed in the 2020 election.”

Do you share Secretary Scalia’s sentiments about President Trump’s failure to acknowledge the clear outcome of the 2020 election?

Response: It is my understanding that, under the U.S. Sentencing Commission’s Code of Conduct, “[a]ll commissioners, whether judges or not, are subject to the ethical canons applicable to federal judges contained in the Code of Conduct for United States Judges.” As a nominee to a position subject to these Codes of Conduct, and consistent with the practice of prior nominees, it would be improper for me to comment on political issues or on statements by any political figure.

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

Response: The 22nd Amendment states in relevant part that “no person shall be elected to the office of the President more than twice.” My understanding is that this text does not allow a President to be elected to a third term.

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

Response: I support law enforcement. And as I testified in my confirmation hearing, I detest all violence against law enforcement. Federal criminal law and the U.S. Sentencing Guidelines both take such conduct seriously, and I am glad that they do. As for pardons, the Constitution gives the President the power to pardon or commute the sentence of anyone convicted of a federal crime. *See Trump v. United States*, 603 U.S. 593, 608 (2024). Regardless of whether an individual agrees or disagrees with a particular pardon, it remains the President’s exclusive, constitutional authority.

11. Would you resign if the President asks you to do something which is inconsistent with your oath to uphold and defend the Constitution?

Response: The President has never directed me to take an unconstitutional action, and I do not expect that he will. Regardless, I will always uphold my oath to support and defend the Constitution.

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

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

Response: I am not aware what the Federalist Society may have meant by that phrase.

b. President Trump wrote on Truth Social that the Federalist Society gave him “bad advice” on “numerous Judicial Nominations.” He also wrote that Leonard Leo is a “sleazebag” who “probably hates America.” If you are not familiar with this post, please refer to it in the footnote.¹

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: It is my understanding that, under the U.S. Sentencing Commission’s Code of Conduct, “[a]ll commissioners, whether judges or not, are subject to the ethical canons applicable to federal judges contained in the Code of Conduct for United States Judges.” As a nominee to a position subject to these Codes of Conduct, and consistent with the practice of prior nominees, 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: See my response to Question 12(b)(i).

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

Response: I do not currently have plans to end my membership in the Federalist Society.

¹ Donald J. Trump (@realDonaldTrump), TRUTH SOCIAL (May 29, 2025, 8:10 PM), <https://truthsocial.com/@realDonaldTrump/posts/114593880455063168>.

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

Response: Since I first expressed interest in this position, I have spoken to or corresponded with individuals employed by the Federalist Society. However, I have not spoken to Leonard Leo or Steven Calabresi since I first expressed interest in this position. To the best of my knowledge, neither Leonard Leo nor Steven Calabresi were involved in my selection process, nor was any other individual who is employed by the Federalist Society.

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

Response: As indicated in my Questionnaire, I joined the Federalist Society while in law school. I have served in various leadership positions within the Federalist Society since joining and have introduced or participated in panels organized by the Federalist Society or by law student chapters of the Federalist Society.

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

Response: To the best of my recollection, no.

13. 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 and recollection, I have not spoken to or corresponded with individuals employed by the Teneo Network since I first expressed interest in this position. I have not spoken to Leonard Leo since I first expressed interest in this position. To the best of my knowledge, Leonard Leo was not involved in my selection process, nor was any individual who is employed by the Teneo Network.

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.

14. 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 and recollection, I have not spoken to or corresponded with individuals employed by the Heritage Foundation or Heritage Action since I first expressed interest in this position. I have not spoken to Kevin Roberts since I first expressed interest in this position. To the best of my knowledge, Kevin Roberts was not involved in my selection process, nor was any other individual who is employed by the Heritage Foundation or Heritage Action.

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.

15. 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: Since I first expressed interest in this position, I have spoken to or corresponded with individuals employed by the America First Policy Institute. To the best of my knowledge, no individual who is employed by that organization was involved in my selection process.

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

Response: As indicated in my Questionnaire, I spoke about ending human trafficking at a panel hosted by the America First Policy Institute earlier this year.

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

Response: No.

16. 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 Gene Hamilton or Daniel Epstein? If so, please provide details of those discussions.

Response: Since I first expressed interest in this position, I have spoken to or corresponded with individuals employed by the America First Legal Institute, including Gene Hamilton and Daniel Epstein, including as part of my participation in that organization’s Next Generation Legal Fellowship. To the best of my knowledge, neither Gene Hamilton nor Daniel Epstein were involved in my selection process, nor was any other individual who is employed by the America First Legal Institute.

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.

17. 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: Since I first expressed interest in this position, I have spoken to or corresponded with Mike Davis. I have also spoken to or corresponded with other individuals employed by the Article III Project. However, to the best of my knowledge and recollection, I have not spoken to or corresponded with Will Chamberlain or Josh

Hammer since I first expressed interest in this position. To the best of my knowledge, Mike Davis, Will Chamberlain, and Josh Hammer were not involved in my selection process, nor was any other individual who is employed by the Article III Project.

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: For a brief period in September 2020, as indicated in my Questionnaire, I provided research services to the Article III Project.

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.

18. 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: Since I first expressed interest in this position, I have spoken to or corresponded with individuals employed by the Alliance Defending Freedom. To the best of my knowledge, no individual who is employed by that organization was involved in my selection process.

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

Response: As indicated in my Questionnaire, I participated in the Alliance Defending Freedom’s Blackstone Legal Fellowship in 2015. Since then, I have occasionally provided services to the Alliance Defending Freedom, such as assisting with mock interviews or resume reviews for law students in the Blackstone Legal Fellowship. I also spoke about federal career opportunities at a discussion hosted by the Alliance Defending Freedom earlier this year, as indicated in my Questionnaire.

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

Response: To the best of my recollection, no.

**Nomination of Jason Manion
Nominee to the U.S. Sentencing Commission
Questions for the Record
Submitted August 13, 2026**

QUESTIONS FROM SENATOR WHITEHOUSE

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

1. If confirmed, what issues would you recommend the Sentencing Commission consider as policy priorities for future amendment cycles?

Response: If confirmed, I intend to work collaboratively with the bipartisan slate of U.S. Sentencing Commissioners who currently serve on the U.S. Sentencing Commission, consult with the Commission's expert staff, and consider all relevant data, research, and input from all interested parties when deciding which issues the Commission should consider as policy priorities for future amendment cycles.

Without prejudging any particular possible amendment to the U.S. Sentencing Guidelines, my priority would be to implement any new sentencing legislation from this body, address circuit splits that arise in the lower courts, and respond to Supreme Court decisions involving the Guidelines.

2. In 2014, the President's Advisory Council on Wildlife Trafficking recommended that the Sentencing Commission review the Sentencing Guidelines on wildlife trafficking offenses for possible revision. In the years since, wildlife trafficking by transnational criminal organizations has become more sophisticated, more prevalent, and more destructive.
 - a. If confirmed, will you review these Guidelines and the Advisory Council's recommendation?

Response: According to U.S. Sentencing Commission data for FY25, U.S. Sentencing Guideline 2Q2.1, which covers offenses involving fish, wildlife, and plants, was applied in only 91 federal criminal cases—only 0.001% of all federal criminal cases. The Commission has limited resources, and I do not know if the Commission will prioritize possible revisions to this Guideline. However, if confirmed, I will work with my colleagues on the Commission to identify appropriate Guidelines amendments, with input from all interested parties. If Congress believes that revisions to this Guideline are necessary, I will of course faithfully implement any Guidelines amendments required by legislation passed by Congress and signed into law by the President.

- b. If confirmed, will you discuss these Guidelines and the Advisory Council's recommendation for consideration of any necessary revisions?

Response: See my answer to Question 2(a).

3. Please describe your view of the role of alternatives to incarceration in federal sentencing.

Response: Federal law requires sentencing judges to consider “the kinds of sentences available” while imposing a sentence that is “sufficient, but not greater than necessary, to comply with” the statutory purposes of sentencing. 18 U.S.C. § 3553(a)(3).

Federal law also requires the U.S. Sentencing Commission to provide guidance to sentencing courts determining “whether to impose a sentence to probation, a fine, or a term of imprisonment.” 28 U.S.C. § 994(a)(1)(A). Under the U.S. Sentencing Guidelines, in general, sentences that do not include incarceration are most appropriate for certain low-level offenders. *See* U.S.S.G. §§ 5A1.1, 5C1.1(b)-(c). But for many higher-level offenses, sentences that do not include incarceration would not be appropriate. *See id.*, §§ 5A1.1, 5C1.1(d), (f).

4. Please describe your view of the role of “problem-solving” or “specialty” courts in federal sentencing.

Response: Generally, federal problem-solving or specialty courts seek to address the specialized needs of particular groups of offenders, such as military veterans, young adults, people with substance-use disorders, or people with mental-health disorders. These problem-solving or specialty courts can operate either on the front-end (*e.g.*, diversion) or the back-end (*e.g.*, reentry) of a criminal case.

Thus far, the U.S. Sentencing Commission has treated these problem-solving or specialty courts as efforts that are best developed locally and at a grassroots level, rather than nationally. At least at present, I agree with this approach. Keeping these efforts decentralized for now allows federal judicial districts to continue experimenting and developing best practices, which may be able to be implemented more broadly in the future as the results of various approaches become known.

**Nomination of Jason Manion
to be a Commissioner of the United States Sentencing Commission
Questions for the Record
Submitted August 19, 2026**

QUESTIONS FROM SENATOR COONS

1. Do you believe that the Senate Judiciary Committee has a responsibility to evaluate executive 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: I believe that the Senate plays an important advice-and-consent role for nominees to Executive Branch and Judicial Branch roles.

2. Do you believe that you, as a nominee to serve as a Commissioner of the United States Sentencing Commission, 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: I have engaged in the Senate confirmation process in good faith and to the best of my ability.

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

Response: Yes. I have engaged in the question-for-the-record process in good faith and to the best of my ability.

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 wrote the responses to your questions for the record. In doing so, I consulted previous nominees' answers to similar questions for the record and consulted with attorneys at the White House and the U.S. Department of Justice.

4. Please describe your experience in the selection process for this position from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated both with those inside and outside of the government).

Response: While serving at the U.S. Department of Justice, I worked with the White House Counsel's Office to identify candidates to serve on the U.S. Sentencing Commission, including by obtaining a list of recommended judicial candidates from the Judicial Conference of the United States and by interviewing judges who were interested in serving on the Commission. During this process, I expressed to the White House Counsel's Office my interest in being appointed to one of the non-judicial Commissioner seats and discussed my qualifications for the

position with the White House Counsel's Office. The White House Counsel's Office subsequently informed me that President Trump had decided to nominate me to the position, and President Trump separately informed me of his intent to nominate me to the position.

5. 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 vote on a particular matter if confirmed? If so, explain fully.

Response: No.

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

Response: I have been fortunate to have had several great role models in the legal profession who have modeled excellent and ethical lawyering. One such role model is Judge Eric E. Murphy, whom I worked for early in my career, twice in the Ohio Attorney General's office and once during his first year as a judge on the U.S. Court of Appeals for the Sixth Circuit. I learned a lot from, and am deeply grateful for, Judge Murphy's example of how to be an excellent and ethical lawyer.

7. If confirmed, will you commit to conducting your duties as a Commissioner according to your best professional judgment, independent from political pressure and influence?

Response: If confirmed, I will exercise my best professional judgment as a U.S. Sentencing Commissioner. In executing my duties, I intend to work collaboratively with the bipartisan slate of Commissioners who currently serve on the U.S. Sentencing Commission, consult with the Commission's expert staff, and consider all relevant data, research, and input from all interested parties.

8. If confirmed, will you commit to conducting your duties as a Commissioner independently and without influence from the White House?

Response: If confirmed, I will serve on the U.S. Sentencing Commission as my own person, not as a representative of the U.S. Department of Justice or of the White House. In executing my duties, I intend to work collaboratively with the bipartisan slate of Commissioners who currently serve on the Commission, consult with the Commission's expert staff, and consider all relevant data, research, and input from all interested parties.

9. In a November 2025 video speech titled "A Bureau on the Brink," Bureau of Prisons (BOP) Deputy Director Josh Smith described "an agency in dire straits." He discussed that "staffing is catastrophic," with "critical areas like psychology and medical services understaffed, causing burnout and mandatory overtime for the rest. The Government Accountability Office has called this one of the worst staffing crises in federal government history." He continued, "our infrastructure budget has a \$4 billion maintenance backlog, with leaking roofs, broken cell doors, and outdated equipment, compromising safety and security." Moreover, "staff and inmate

suicides have also surged, a heartbreaking outcome as a result of deficient health and wellness support and chronic staffing shortages.” He concluded, “97% of those that we have in our custody are going to be released back into our communities. That is why there is no other agency in all of law enforcement that has a greater impact on public safety than this Bureau of Prisons.”

It is apparent that the deep capacity challenges faced by BOP create significant public safety risks to staff, correctional officers, and inmates. They also endanger public safety more generally by inhibiting the ability of inmates to rehabilitate and then safely and effectively reintegrate into our communities.

a. Do you share Deputy Director Smith’s concerns about the capacity challenges at BOP? Please explain.

Response: I am unfamiliar with these comments and did not work closely with the Bureau of Prisons during my time at the U.S. Department of Justice. I agree, however, that it is important for the Department and the Bureau to protect the safety of staff, correctional officers, and inmates and to ensure that there is sufficient capacity within the prison system to incarcerate all who need to be incarcerated.

b. Do you agree that these capacity challenges can create risks to public safety for BOP personnel, inmates, and the public at large? Please explain.

Response: See my response to Question 9(a).

10. The statute that lays out the duties of the Commission, 28 U.S.C. § 994, says that when the Commission considers sentencing guidelines, it “shall take into account the nature and capacity of the penal, correctional, and other facilities and services available.” It continues, “[t]he sentencing guidelines . . . shall be formulated to minimize the likelihood that the Federal prison population will exceed the capacity of the Federal prisons.” This mandate reflects Congress’s judgment that compared to BOP (which has no role at sentencing), or compared to the disaggregated decisions of hundreds of federal district judges, it is the Commission that is best situated to ensure that on a systemic basis our federal sentencing laws operate effectively within BOP capacity.

a. Do you agree that as a Commissioner it will be your duty to formulate Guidelines to minimize the likelihood that the Federal prison population will exceed the capacity of the Federal prisons?

Response: If confirmed, I will follow Congress’s instruction to consider, alongside other considerations, “the nature and capacity of the penal, correctional, and other facilities and services available.” 28 U.S.C. § 994(g). I will likewise follow Congress’s additional instruction to make any necessary “recommendations concerning any change or expansion in the nature or capacity of such facilities and services that might become necessary as a result of the [G]uidelines.” *Id.*

- b. If confirmed, how will you implement this statutory mandate?

Response: See my response to Question 10(a).

11. One tool to better address BOP capacity challenges is alternatives to incarceration, and on that point, Congress directed the Commission to ensure that “the guidelines reflect the general appropriateness of imposing a sentence other than imprisonment in cases in which the defendant is a first offender who has not been convicted of a crime of violence or an otherwise serious offense.”

- a. Do you think the Guidelines sufficiently implement this directive? If yes, why?

Response: If confirmed, I will follow Congress’s instructions to ensure both that the U.S. Sentencing Guidelines “reflect the general appropriateness of imposing a sentence other than imprisonment in cases in which the defendant is a first offender who has not been convicted of a crime of violence or an otherwise serious offense, and the general appropriateness of imposing a term of imprisonment on a person convicted of a crime of violence that results in serious bodily injury.” 28 U.S.C. § 994(j).

Beyond that, it would be inappropriate for me to prejudge any possible amendment to the Guidelines. If Congress believes any such amendments are necessary, I will faithfully implement any Guidelines amendments required by legislation passed by Congress and signed into law by the President. Otherwise, I will work with my colleagues on the Commission to identify appropriate amendments, with input from all interested parties.

- b. If not, how would you amend the Guidelines to encourage alternatives to incarceration, particularly for first-time, nonviolent offenders?

Response: See my response to Question 11(a).

12. In the rare instances where the Commission has voted along party lines to promulgate amendments, the Commission has been criticized by commentators and some legislators. Do you commit to supporting only those guideline amendments that have bipartisan support among the Commissioners?

Response: I believe there is value in reaching consensus on amendments to the U.S. Sentencing Guidelines. I intend to work collaboratively with the bipartisan slate of U.S. Sentencing Commissioners to reach consensus where possible.

My preference for consensus is informed in part by the fact that the Sentencing Guidelines are (since *United States v. Booker*, 543 U.S. 220 (2005)) only advisory, not mandatory. Sentencing judges have discretion to vary upward or downward from the advisory Guidelines range, including because of policy disagreements with the Guidelines. *E.g.*, *Kimbrough v. United States*, 552 U.S. 85 (2007). Given this discretion, sentencing judges can reasonably be expected to vary from the advisory Guidelines range more often if they do not trust the process that created them. And the more often that sentencing judges do so, the less likely the Guidelines are

to accomplish one of their primary goals—reducing sentencing disparities among similarly situated defendants. It can thus be self-defeating for the Commission to vote along party lines to promulgate amendments.

13. The Commission’s enabling statute, 28 U.S.C. § 991, provides for an ex officio member from the Department of Justice, but it does not provide a corresponding role for a representative from the Federal Public Defenders. The Judicial Conference of the United States supports a Defender ex officio.

a. Do you support legislation that would create a Defender ex officio position?

Response: I defer to Congress and the President on this question. If Congress passes such legislation and the President signs it into law, I would welcome the participation of a nonvoting member with a public-defender background.

b. In the absence of congressional action on this issue, what steps will you take to ensure that Defenders have equal access to the Commissioners and that the Department of Justice does not have outsized influence in the creation of new guideline provisions?

Response: The U.S. Sentencing Commission welcomes public comments from all interested parties on its priorities and on proposed amendments, and routinely receives such comments from the defense bar. My understanding is that the Commission also currently solicits additional input from the defense bar, including the public-defender community, outside the ordinary notice-and-comment process. If confirmed, I would of course welcome continued engagement from the defense bar and would work with my colleagues on the Commission to identify appropriate ways to ensure continued engagement.

14. Since May 2026, you have been detailed from the U.S. Attorney’s Office for the Northern District of Ohio to the White House, where you serve as General Counsel and Senior Advisor for the Task Force to Eliminate Fraud.

a. If you are confirmed, will you continue to work at the White House while you serve on the Commission?

Response: As indicated in my Questionnaire, I intend to maintain outside employment while serving as a part-time Commissioner on the U.S. Sentencing Commission. I do not know for how long my current assignment at the White House will overlap with my intended service on the Commission, if at all. Regardless, if I am confirmed to this position, I will serve on the Sentencing Commission as my own person, not as a representative of the U.S. Department of Justice or the White House. In executing my duties on the Commission, I intend to work collaboratively with the bipartisan slate of Commissioners who currently serve on the Commission, consult with the Commission’s expert staff, and consider all relevant data, research, and input from all interested parties.

b. If so, what steps will you take to ensure that your work on the Commission remains independent and uninfluenced by President Trump's policy preferences and by your ongoing work with the White House Task Force to Eliminate Fraud?

Response: See my response to Question 14(a).

15. I am concerned that you lack the necessary experience to undertake this important role. In your Senate Judiciary Questionnaire, you note, "Most of my litigation practice has been as an appellate attorney, and I have not served as sole or chief counsel in any case tried to verdict or judgment in a trial court. However, as an Assistant United States Attorney and at the United States Department of Justice, I appeared in federal district courts on at least eight occasions and handled contested motions to dismiss in criminal cases, a preliminary injunction hearing in a civil case, and several contested Sentencing Guidelines issues at criminal sentencings."

a. After graduating from law school and aside from your two clerkships, how many years have you litigated?

Response: My federal prosecution experience, combined with my additional high-level experience in all three branches of federal government, state government, and private practice, has prepared me well to serve as a Commissioner on the U.S. Sentencing Commission. I served as an Assistant United States Attorney, where I handled dozens of criminal appeals, including many of my office's most complex criminal sentencing issues under the U.S. Sentencing Guidelines and various federal statutes. As just one example, I argued on behalf of the United States before an eighteen-judge *en banc* panel of the U.S. Court of Appeals for the Sixth Circuit in a complicated sentencing case that resolved an intra-circuit split about whether various Ohio robbery offenses qualified as "crimes of violence" under U.S. Sentencing Guideline § 4B1.2. I have also handled several contested Sentencing Guidelines issues at criminal sentencings in district court.

Since graduating from law school and in addition to my two federal clerkships on the U.S. Court of Appeals for the Sixth Circuit, I have spent approximately seven years in litigation roles or roles that included litigation responsibilities.

b. How many "contested Sentencing Guidelines issues at criminal sentencings" have you handled?

Response: As an appellate Assistant United States Attorney, I regularly assisted trial Assistant United States Attorneys in handling contested Guidelines issues. But I did not always sign those sentencing memoranda or appear in federal court alongside my colleagues at sentencing. I therefore do not know the exact number of contested Guidelines issues that I assisted with at the sentencing stage, but I signed sentencing memoranda or appeared in federal court at sentencing in several cases, in addition to the dozens of criminal appeals that I also handled.

c. Why do you think you are qualified to serve on the Commission given your short professional career?

Response: See my response to Question 15(a).

**Questions for the Record for Jason Manion
Submitted by Senator Richard Blumenthal
August 12, 2026**

1. 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.

2. Do you support law enforcement?

Response: Yes, I support law enforcement.

- a. Many of those pardoned by President Trump for their roles in the January 6, 2021 attack on the Capitol engaged in assaults on law enforcement. Do you support President Trump's pardon of Daniel Ball, who threw an explosive device into a tunnel filled with law enforcement officers?

Response: As I testified in my confirmation hearing, I detest all violence against law enforcement. Federal criminal law and the U.S. Sentencing Guidelines both take such conduct seriously, and I am glad that they do. As for pardons, the Constitution gives the President the power to pardon or commute the sentence of anyone convicted of a federal crime. *See Trump v. United States*, 603 U.S. 593, 608 (2024). Regardless of whether an individual agrees or disagrees with a particular pardon, it remains the President's exclusive, constitutional authority.

- b. Do you support President Trump's pardon of Jacob Lang, who was filmed hitting law enforcement officers with a baseball bat and riot shield?

Response: See my response to Question 2(a).

- c. Do you support President Trump's pardon of Jeffrey McKellop, who stabbed a police officer in the face with a flagpole?

Response: See my response to Question 2(a).

- d. Do you support President Trump's pardon of Daniel "D.J." Rodriguez, who plunged a stun gun into the neck of Metropolitan Police Officer Michael Fanone and repeatedly shocked him?

3. In 2022, Jacob Deutsch pled guilty in a nearly \$50 million mortgage fraud scheme in Hartford. He falsified documents, misleading financial institutions, Fannie Mae, Freddie Mac, and the Department of Housing and Urban Development. He was sentenced in 2024 to over five years of prison. Do you support President Trump's pardon of Jacob Deutsch?

Response: The Constitution gives the President the power to pardon or commute the sentence of anyone convicted of a federal crime. *See Trump v. United States*, 603 U.S. 593, 608 (2024). Regardless of whether an individual agrees or disagrees with a particular pardon, it remains the President's exclusive, constitutional authority.

4. In July 2025, the Department of Justice secured an indictment against Timothy Leiweke, alleging that he had conspired to rig the bidding for construction of a new arena for the University of Texas at Austin. Leiweke's actions allegedly ensured that his company was the sole qualified bidder for the contract. Do you support President Trump's pardon of Timothy Leiweke?

Response: See my answer to Question 3.

5. David Gentile was convicted of conspiring to defraud investors of approximately \$1.6 billion. His victims included thousands of investors, many of whom were retirees. Under his conviction, he was required to pay \$15.5 million in restitution and was sentenced to seven years in prison. Do you support President Trump's pardon of David Gentile?

Response: See my answer to Question 3.

**Senator Mazie K. Hirono
Senate Judiciary Committee**

**Nomination Hearing
Questions for the Record for Jason Manion**

1. As part of my responsibility as a member of this committee to ensure the fitness of nominees, I ask each nominee to answer two initial questions:

a. **Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?**

Response: No.

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

Response: No.

2. **Describe your involvement with the Task Force to Eliminate Fraud, established by Executive Order 14395.**

Response: Since May, I have served as General Counsel and Senior Advisor for the White House Task Force to Eliminate Fraud. In that role, I have provided legal advice on various anti-fraud efforts to policymakers in the White House and in Executive Branch agencies. Generally speaking, I have advised policymakers on how to achieve the important policy goal of combatting waste, fraud, and abuse, and how to do so while complying with the Constitution and laws of the United States.

However, for several reasons, I am unable to provide additional details about my involvement in the White House Task Force to Eliminate Fraud. First, as an attorney, I have an ethical obligation to preserve confidential communications and advice that I may have provided to clients. Second, it would be inappropriate for me to disclose legal advice or other confidential information, arguably to the detriment of my clients; it would be especially inappropriate for me to disregard my ethical obligations to advance my personal interest in confirmation. Third, efforts to obtain the Executive Branch's confidential information in the context of a confirmation process 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 process 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 (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).

Therefore, like numerous nominees before me who were serving, or had previously served, in the Executive Branch at the time of their nomination, I am able to describe in generalities my role and responsibilities as an Executive Branch official but I am not able to disclose details of legal advice or confidential information. *See* Appendix A: Statements by Prior Nominees Regarding Non-Disclosure of Internal Government Deliberations, Response by Judge Emil J. Bove, III to question for the record by Senator Charles E. Grassley, *available at* <https://www.judiciary.senate.gov/imo/media/doc/27d018a5-ae4f-87e7-c6b4-e7a3034d2ce7/2025-06-25%20-%20QFR%20Responses%20-%20Bove.pdf#page=8>.

3. At any point during your details to Main Justice or the White House did you witness or engage in any discussion regarding whether or not to investigate fraud in a particular state or locality based on the political affiliation of the state or locality’s leadership? If so, describe.

Response: Based on public information, I can assure you that the White House Task Force to Eliminate Fraud is fighting fraud throughout the entire country. *See* The Fraud Ledger, The White House, *available at* <https://www.whitehouse.gov/fraud/> (cataloguing anti-fraud actions across the entire country). As one example, the Task Force and its member agencies took immediate and aggressive action to respond to high-profile allegations of widespread Medicaid fraud in my home state of Ohio, which is led by Republicans. *See, e.g.,* Fraud Division Announces Federal-State Partnership in Ohio to Prosecute Fraud, U.S. Dep’t of Justice (June 4, 2026), <https://www.justice.gov/opa/pr/fraud-division-announces-federal-state-partnership-ohio-prosecute-fraud>. Beyond that, I am unable to divulge specifics about the operations of the Task Force or of the U.S. Department of Justice, or details about confidential communications or advice, for the reasons discussed in my answer to Question 2.

4. At any point during your details to Main Justice or the White House did you witness or engage in any discussion regarding whether or not to investigate or prosecute an individual for fraud based on the individual’s perceived political opposition to President Trump? If so, describe.

Response: Based on public information, I can assure you that the U.S. Department of Justice is investigating and prosecuting individuals for fraud throughout the entire country. And the Department prohibits federal prosecutors and agents from making decisions regarding investigations and prosecutions based on certain political considerations. U.S. Dep’t of Justice, Justice Manual § 9-85.500 (2023). Beyond that, I am unable to divulge specifics about the operations of the Task Force or of the U.S. Department of Justice, or details about confidential communications or advice, for the reasons discussed in my answer to Question 2.

5. In *Talbott v. United States*, No. 25-5087, you argued before the D.C. Circuit that the district court gave insufficient deference to a proffered expert’s judgement that transgender servicemembers “pose[] substantial risks and would undermine military readiness, disrupt unit cohesion, and impose an unreasonable burden on the military.”¹

¹ Manion Senate Judiciary Questionnaire at 18.

a. **Are you aware that similar arguments were made historically to oppose racial integration in the military?**

Response: I of course oppose all discrimination on the basis of race or sex, including in the military. And my representation in *Talbott v. United States* did not involve any such claim of discrimination on the basis of race or sex. I support the ability of every American who can satisfy the strict standards of military service to serve their country in uniform, no matter their race or sex.

“[J]udges are not given the task of running the Army.” *Orloff v. Willoughby*, 345 U.S. 83, 93-94 (1953). Instead, the Commander in Chief and the Secretary of War run the military. In *Talbott*, I defended this basic principle in the context of a military policy prohibiting service by individuals with gender dysphoria, a medical condition associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning. The Secretary of War had concluded, in reliance on the considered judgment of expert military leadership, that the policy would advance important military interests. Under our Constitution and Supreme Court precedent, this was the Secretary of War’s decision to make, and I defended his authority to do so.

It is true that the district court enjoined the policy. Importantly, however, a stay panel of the D.C. Circuit stayed that injunction in its entirety. *Talbott v. United States*, No. 25-5087, 2025 U.S. App. LEXIS 32166 (D.C. Cir. Dec. 9, 2025). And the merits panel of the D.C. Circuit vacated most of that same injunction. *Talbott v. United States*, 176 F.4th 720 (D.C. Cir. 2026). In a parallel proceeding, where another district court also enjoined the policy, the Supreme Court intervened to allow the policy to go into effect. *United States v. Shilling*, 145 S. Ct. 2695 (2025).

b. **Do you support racial integration of the military?**

Response: See my response to Question 5(a).

c. **Are you aware that similar arguments were made historically to oppose women in the military?**

Response: See my response to Question 5(a).

d. **Do you support gender integration of the military?**

Response: See my response to Question 5(a).

e. Defense Secretary Hegseth recently ordered a review to evaluate the operational effectiveness of women in ground combat units, over a decade after all remaining combat restrictions were lifted. **Do you agree that every servicemember, regardless of gender, should be permitted to serve in any role, including in the combat arms, if they meet the established standards?**

Response: See my response to Question 5(a).

f. **Did the district court in this case find that the policy was “soaked in animus,” “unabashedly demeaning” and “stigmatizes transgender persons as inherently unfit.”**

Response: See my response to Question 5(a).

6. On November 10, 2017, you posted a law review article discussing President Trump’s attacks on the federal government and federal agencies in the courts. You added “Apparently I’m an anti-administrativist.” **Define your understanding of the term anti-administrativist.**

Response: “Anti-administrativist” is not my term. It was instead a quote from the law review article that I posted. As far as I can tell, “anti-administrativist” is a possibly pejorative catch-all term that the author of the article coined to describe a wide variety of conservatives and libertarians (including legal scholars, judges, Supreme Court justices, President Trump, and members of the first Trump administration) who had criticized certain administrative-law doctrines, such as the *Chevron* doctrine. See Gillian E. Metzger, Foreword: 1930s Redux: The Administrative State Under Siege, 131 Harv. L. Rev. 1, 2-8 (2017). I had studied many of these conservative critiques in law school and agreed with some of them. My post reflected that fact.

The Supreme Court has since rejected some of the doctrines discussed in the law review article, including the *Chevron* doctrine. See *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024).

**Nomination of Jason Manion
United States Sentencing Commission
Questions for the Record
Submitted August 7, 2026**

QUESTIONS FROM SENATOR BOOKER

1. You are currently an Assistant U.S. Attorney at the U.S. Attorney's Office for the Northern District of Ohio, and a Senior Advisor on Vice President J.D. Vance's Task Force to Eliminate Fraud. You would continue to be employed in these roles while you hold your part-time position on the Sentencing Commission.

a. What measures would you take to avoid conflict, and to firewall your work on the Commission from your daily work as a prosecutor?

Response: As indicated in my Questionnaire, I intend to maintain outside employment while serving as a part-time Commissioner on the U.S. Sentencing Commission. I do not know for how long my current assignment at the White House or my employment by the U.S. Department of Justice will overlap with my intended service on the Commission, if at all.

It is worth noting that I would not be the first Assistant United States Attorney to concurrently serve on the Commission. It is my understanding that at least current Commissioner Candice Wong and former Commissioner Julie Carnes also served as Assistant United States Attorneys during at least part of their service on the Commission.

Regardless, if I am confirmed to this position, I will serve on the Sentencing Commission as my own person, not as a representative of the Department or the White House. In executing my duties on the Commission, I intend to work collaboratively with the bipartisan slate of Commissioners who currently serve on the Commission, consult with the Commission's expert staff, and consider all relevant data, research, and input from all interested parties.

If confirmed, in the event of a potential conflict of interest, I would consult with my colleagues and the Administrative Office of the United States Courts and recuse myself where necessary. I will also comply with all applicable statutes and binding policies relevant to this office.

b. Are you concerned that your role as a Commissioner will create unfairness in sentencings you participate in as an advocate for the United States while also serving as a voting member of the commission?

Response: See my response to Question 1(a).

c. As a Commissioner, would you be able to take positions that contradict the Department of Justice's policy priorities, or would you consider yourself bound to follow the Department's position?

Response: See my response to Question 1(a).

d. How will your work with the Sentencing Commission be influenced by your role as a Senior Advisor on the Task Force to Eliminate Fraud?

Response: See my response to Question 1(a).

e. Would you be willing to recommend a guideline for the Sentencing Commission even if the Vice President, President, or other appointed members of the President's administration disagree?

Response: See my response to Question 1(a).

f. Have President Trump, Vice President Vance, or any other appointed member of the Executive branch directly discussed this nomination with you? Identify when, who, how, and the content of the discussion.

Response: I have discussed this nomination with President Trump and with members of the Executive Branch. While serving at the Department of Justice, I worked with the White House Counsel's Office to identify candidates to serve on the Sentencing Commission, including by obtaining a list of recommended judicial candidates from the Judicial Conference of the United States and by interviewing judges who were interested in serving on the Commission. During this process, I expressed to the White House Counsel's Office my interest in being appointed to one of the non-judicial Commissioner seats and discussed my qualifications for the position with the White House Counsel's Office. The White House Counsel's Office subsequently informed me that President Trump had decided to nominate me to the position, and President Trump separately informed me of his intent to nominate me to the position. Throughout the process, I also discussed my interest in serving on the Commission with colleagues in the Department of Justice. I have never been told or led to believe that my nomination was contingent on abiding by any political, ideological, or other agendas.

g. Were you ever told or led to believe that your nomination to the sentencing commission was contingent on your willingness to abide by certain political, ideological, or other agendas?

Response: No.

2. In *Ramirez v. Collier*, the Supreme Court upheld an injunction staying the execution of a Texas death row detainee because the Texas state prison refused to allow a pastor to pray with

the detainee in the chamber during the execution.¹ You co-authored an amicus brief in that case which advocated for the detainee's execution without further delay, citing negative impacts of prolonged trials on victims' families.² As you know, people who receive a death penalty are entitled to a lengthy appeal process, which takes an average of 22 years to progress,³ in part because our nation has a history of executing people who are not guilty. In fact, since 1973, for every eight people executed in the United States, one person on death row has been exonerated.⁴

a. Do you stand by your argument in that amicus brief?

Response: John Ramirez stabbed Pablo Castro over 29 times for \$1.25 and left him to bleed to death in the parking lot of a convenience store. For more than seventeen years, Castro's children endured many delays in securing justice for their father and closure for themselves, including ones they believed resulted from manipulative litigation tactics. I am proud to have represented them and conveyed their views and experiences to the U.S. Supreme Court.

Our amicus brief did not take a position on when pursuing the death penalty in the first instance is appropriate but instead focused on the harms that excessive delays in obtaining justice inflict on victims' families. Castro's children certainly faced harm from the repeated delays in the *Ramirez* case, and we conveyed those harms to the Supreme Court in Castro's children's own words.

Due process is certainly important, especially in capital cases. At the same time, both "the State and the victims of crime have an important interest in the timely enforcement of a sentence." *Bucklew v. Precythe*, 587 U.S. 119, 149 (2019). Our criminal justice system should afford capital and non-capital defendants due process while also minimizing unnecessary delays and being considerate towards the victims of crime.

b. In general, do you think pursuing the death penalty for a crime is beneficial to the victims and survivors?

Response: See my response to Question 2(a).

c. The studies cited in the amicus brief discuss the negative impact of lengthy trials on victims' families. Do you think disputes over the execution in *Ramirez* prolonged the suffering for the victim's family?

Response: See my response to Question 2(a).

¹ *Ramirez v. Collier*, 142 S.Ct. 1264 (2022).

² *Brief of Pablo Castro's Children Maria Chavon Aguilar, Fernando Castro, Pablo Castro, Jr., and Roberto Salcedo, Jr., as Amici Curiae in Support of Respondent*, No. 21-5592, *Ramirez v. Collier*, 142 S.Ct. 1264 (2022).

³ Bureau of Just. Stat., U.S. Dep't of Justice, NCJ 300381, *Capital Punishment, 2019 – Statistical Tables* at 2, (June 2021) <https://bjs.ojp.gov/sites/bjs/files/media/document/cp19st.pdf>.

⁴ *Innocence*, DEATH PENALTY INFO. CTR., <https://deathpenaltyinfo.org/policy-issues/policy/innocence> (Aug. 4, 2026).

d. Given an average of 22 years, the 17-year delay in the *Ramirez* case was a typical timeline for death penalty cases.

i. Do you support limiting appeals available to death row inmates if it guaranteed shorter execution timelines? Explain.

Response: See my response to Question 2(a).

ii. Would you consider foregoing the death penalty if it guaranteed a quicker resolution to the trial?

Response: See my response to Question 2(a).

iii. Do you believe that people sentenced to death are afforded too much due process?

Response: See my response to Question 2(a).

3. The United States is the only industrialized nation that still has the death penalty -an inherently flawed and imperfect application of justice. Since 1973, at least 202 people have been exonerated from death sentences after being wrongfully convicted.⁵ One study conservatively estimated that 4% of people sentenced to death are innocent.⁶ Still, 27 states and the Federal Government allow the death penalty.

a. Do you support the federal death penalty? Please explain your position.

Response: The death penalty is constitutional. *See, e.g., Bucklew v. Precythe*, 587 U.S. 119 (2019). Whether the United States should continue to have the death penalty is therefore a decision for Congress, the President, and the American people. It is for the political branches and the American people, not the U.S. Sentencing Commission, to decide whether to continue to have a federal death penalty.

It is of course tragic when any innocent person is convicted of any crime. Our criminal justice system therefore provides robust protections designed to ensure that only guilty persons are convicted of crimes, including by requiring the prosecution to prove guilt beyond a reasonable doubt and by allowing a jury of one's peers to determine guilt and innocence and, in the capital cases, typically to determine whether the death penalty is appropriate. Our system also provides for judicial review of guilty convictions, both on direct appeal and via post-conviction review, including in certain circumstances when new evidence is discovered that casts doubt on the guilty verdict. Finally, even when judicial remedies are no longer available, the Constitution gives the President the pardon power and the power to commute death sentences.

⁵ *Id.*

⁶ Samuel R. Gross et al., *Rate of False Conviction of Criminal Defendants Who Are Sentenced to Death*, 111 Proc. Nat'l Acad. Sci. 7230 (2014), <https://www.pnas.org/doi/full/10.1073/pnas.1306417111> (Aug. 4, 2014).

b. What justifies death penalty's continued use, even if that necessarily means innocent people are wrongfully executed?

Response: See my response to Question 3(a).

c. Do you believe the likelihood of wrongful conviction is a necessary consideration in determining sentencing guidelines for a crime? Explain.

Response: The U.S. Sentencing Guidelines apply only at sentencing, after guilt is determined. I do not believe that the Guidelines should include a discount based on the possibility of wrongful conviction. Instead, I believe that the procedures referenced in my response to Question 3(a) provide more appropriate ways to address wrongful convictions.

4. In 2025, the Council on Criminal Justice reported the national homicide rate was the lowest it has been since 1900.⁷

a. What do you think explains the historic drop in violent crime across the United States?

Response: There are likely multiple causes for the recent historic drops in violent crime and homicides, including increased border security and increased focus both on law enforcement in our Nation's most violent cities and on prosecuting violent crimes across the country. There are differing views on whether the death penalty is an effective deterrent of capital crime, but it should be unsurprising that there are lower numbers of capital sentences in periods where there are also lower numbers of homicides, since the Supreme Court has held that the death penalty can be constitutionally applied only to homicide crimes. *Kennedy v. Louisiana*, 554 U.S. 407 (2008).

Regardless, these historic drops in violent crime and homicides should be celebrated. And the causes for these historic drops should be studied so that they can be replicated. If confirmed, I will use my best professional judgment to ensure that the U.S. Sentencing Guidelines recommend appropriate sentences for violent crimes. In doing so, I intend to work collaboratively with the bipartisan slate of Commissioners who currently serve on the Commission, consult with the Commission's expert staff, and consider all relevant data, research, and input from all interested parties.

b. Do you believe the death penalty is an effective deterrent of capital crime? Explain.

Response: See my response to Question 4(a).

⁷ Ernesto Lopez & Bobby Boxerman, *Crime Trends in U.S. Cities: Year-End 2025 Update*, Coun. on Crim. Just., (Jan. 2026), <https://counciloncj.org/crime-trends-in-u-s-cities-year-end-2025-update/>.

c. Similar to national homicide rates, the proportion of sentences awarding the death penalty are also at a historic low. Death penalty sentences have fallen by more than 90% since 1993.⁸ How do you think this trend affects crime?

Response: See my response to Question 4(a).

d. Have changes to USSC sentencing guidelines been in responsible for the historic drop in violent crime?

Response: See my response to Question 4(a).

5. USSC Guidelines recommend a 2-level reduction in offense level when a defendant “clearly demonstrates acceptance of responsibility for his offense.”⁹ Considerations under this guideline include a defendant’s participation in post-offense rehabilitative efforts (e.g., counseling or drug treatment).¹⁰ The acceptance-of-responsibility guideline is invoked to reduce the offense level in 88% of federal sentences.¹¹ You defended the constitutionality of this guideline in *United States v. Bethune*.¹²

a. Do you agree that a defendant who accepts responsibility for their offense should receive a reduced sentence? Explain why or why not.

Response: I agree that the U.S. Sentencing Guidelines recommend a two-level reduction when a defendant “clearly demonstrates acceptance of responsibility for his offense,” U.S.S.G. § 3E1.1(a), and I agree that defendants who qualify for this sentence reduction should ordinarily receive it.

b. Beyond initial sentencing, 18 U.S. Code § 3624 stipulates that a defendant’s participation in rehabilitative programming can also be considered when granting pre-release custody or early release.¹³

i. Does the legal reasoning to support U.S. Sentencing Guideline 2E1.1 apply also to 18 U.S. Code § 3624? Why or why not?

Response: As for home confinement, my understanding of the statute you reference is that defendants who otherwise qualify for home confinement may leave their home, with approval from the Director of the Bureau of Prisons, to participate in evidence-based recidivism reduction programming or other similar

⁸ John Gramlich, *10 Facts About the Death Penalty in the U.S.*, Pew Research Center (July 19, 2021), <https://www.pewresearch.org/short-reads/2021/07/19/10-facts-about-the-death-penalty-in-the-u-s/>.

⁹ U.S.S.G. § 3E1.1(a) (2025)

¹⁰ *Id.*

¹¹ U.S. Sentencing Comm’n, Quick Facts on Individuals in the Federal Bureau of Prisons (2025), <https://www.ussc.gov/research/quick-facts/individuals-federal-bureau-prisons>.

¹² *United States v. Bethune*, No. 22-3688, 2023 WL 4204532 (6th Cir. June 27, 2023).

¹³ 18 U.S. Code § 3624 (g) (2018)

activities, but may not otherwise leave their home. 18 U.S.C. 3624(g)(2)(A)(i)(II)(bb).

- ii. As a general policy, do you support expanding pre-release custody programs for low-risk prisoners who complete rehabilitative programming while incarcerated? Why or why not?

Response: Reducing recidivism is an important goal of sentencing, and of the criminal justice system more generally, and I support programming that helps defendants to reduce their risk of recidivating, whether such programming is offered to defendants while they are still in prison, during home confinement or supervised release, or after they are released from prison or other confinement.

6. Black Americans are incarcerated at more than 5 times the rate of white Americans.¹⁴ Additionally, a 2017 study by the United States Sentencing Commission found that Black male offenders received sentences on average 19.1% longer than similarly situated white male offenders.¹⁵

- a. What do you think explains the racial disparity in sentencing?

Response: Racial disparities in the criminal justice system may have many root causes. However, under our Constitution, no law enforcement official, prosecutor, or judge may ever subject a defendant to prosecution, or to different punishments or penalties, on the basis of the defendant's race. Our criminal justice system must be colorblind, just as our Constitution is colorblind. *Allen v. Milligan*, 147 S. Ct. 1377 (2026).

This concept extends to the U.S. Sentencing Guidelines. In addition to the constitutional constraint just mentioned, federal law requires the U.S. Sentencing Commission to ensure that the Guidelines "are entirely neutral as to the race . . . of offenders." 28 U.S.C. § 994(d).

Although the Guidelines are (since *United States v. Booker*, 543 U.S. 220 (2005)) only advisory, not mandatory, and although sentencing judges have discretion to vary upward or downward from the advisory Guidelines range, including because of policy disagreements with the Guidelines, *e.g.*, *Kimbrough v. United States*, 552 U.S. 85 (2007), the Guidelines can still play an important role in reducing or eliminating racial disparities in sentencing, especially when sentencing judges sentence defendants within the applicable Guidelines range. But even when the sentencing judge does not, the race-neutral Guidelines nevertheless provide the "starting point and . . . initial benchmark" for sentencing. *Gall v. United States*, 552 U.S. 38, 49 (2007).

As for reports on racial disparities in sentencing, the Commission's Office of Research and Data plays an important role in collecting, analyzing, and disseminating sentencing

¹⁴ Criminal Justice Fact Sheet, NAACP (Aug. 4, 2026), <https://naacp.org/resources/criminal-justice-fact-sheet>.

¹⁵ U.S. Sent'g Comm'n, Demographic Differences in Sentencing: An Update to the 2012 Booker Report (2017).

data that can inform Congress, the Commission, sentencing judges, and other interested parties about whether and to what extent racial disparities continue to exist in our criminal justice system. If confirmed, I intend to support that Office's continued research work.

b. Since their creation in 1984, how have changes to the USSC Sentencing Guidelines affected racial disparity in sentencing outcomes?

Response: See my response to Question 6(a).

c. How important are USSC studies, like the one cited above, for informing sentencing outcomes across the criminal justice system?

Response: See my response to Question 6(a).

d. As a Commissioner, will you support continued investment into studies like the one cited above?

Response: See my response to Question 6(a).

e. Even for sentences falling within the USSC recommended ranges, Black male offenders received sentences that were 7.9% longer than similarly situated white males.¹⁶ What effect does judicial bias have on sentencing outcomes?

Response: See my response to Question 6(a).

7. If President Trump directs you to take an illegal action or unethical action, how would you respond?

Response: The President has never directed me to take an illegal or unethical action, and I do not expect that he will. Regardless, I will always uphold my oath to support and defend the Constitution, will follow the law, and will comply with my ethical obligations.

8. If any official in the Department of Justice directs you to take an illegal action or unethical action, how would you respond?

Response: No official in the Department of Justice has directed me to take an illegal or unethical action, and I do not expect that they will. Regardless, I will always uphold my oath to support and defend the Constitution, will follow the law, and will comply with my ethical obligations.

9. If any member of the Administration directs you to take an illegal action or unethical action, how would you respond?

¹⁶ *Id.* at Figure 4.

Response: No member of the Administration has directed me to take an illegal or unethical action, and I do not expect that they will. Regardless, I will always uphold my oath to support and defend the Constitution, will follow the law, and will comply with my ethical obligations.

10. 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: To the best of my knowledge, no.

11. Did you discuss the possibility of an appointment to this position, or any other role in the Administration, with President Trump or anyone else associated with him? Please provide name of the individual, the dates, mode, and content of those discussions and communications.

Response: Yes. While serving at the U.S. Department of Justice, I expressed to the White House Counsel's Office and to colleagues at the Department my interest in being appointed to the U.S. Sentencing Commission, and discussed with the White House Counsel's Office my qualifications for the position. President Trump has also congratulated me on my nomination. I have held other roles in this Administration, in the Department and at the White House, and discussed the possibility of appointment to those roles and others with the appropriate hiring authorities.

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

Response: I will always advise a client, including agencies of the Executive Branch, to comply with court orders applicable to them.

13. Under what circumstances, if any, would it be acceptable to change the United States Sentencing Guidelines, not because of the strength of the policy, but because of an Administration policy priority? Please provide each one and the justification.

Response: Every Administration, acting through the U.S. Department of Justice, has a right to advocate for amendments to the U.S. Sentencing Guidelines. The U.S. Sentencing Commission, which is an independent agency in the Judicial Branch and is and should be independent from the Executive Branch, must consider whether such changes are appropriate. Amendments to the Guidelines do not become effective without an affirmative vote of at least four members of the Commission, and Congress always has the ability to disapprove of an amendment before it becomes final.

14. Do you believe that the policy guidance issued by the USSC must be impartial and insulated from political influence? Why or why not?

Response: See below.

- a. Do you believe that it is appropriate for USSC commissioners to use their position to pursue personal political objectives?

Response: I believe that it is important for sentencing judges to believe that the U.S. Sentencing Guidelines, and amendments thereto, are based on sound sentencing policy, not on politics. This is especially important because the Guidelines are (since *United States v. Booker*, 543 U.S. 220 (2005)) only advisory, not mandatory. Sentencing judges have discretion to vary upward or downward from the advisory Guidelines range, including because of policy disagreements with the Guidelines. *E.g.*, *Kimbrough v. United States*, 552 U.S. 85 (2007). Given this discretion, sentencing judges can reasonably be expected to vary from the advisory Guidelines range more often if they do not trust the process that created them. And the more often that sentencing judges do so, the less likely the Guidelines are to accomplish one of their primary goals—reducing sentencing disparities among similarly situated defendants. It can therefore be self-defeating for the U.S. Sentencing Commission to promulgate amendments to the Guidelines that sentencing judges do not believe were based on sound sentencing policy, not on politics.

15. Please explain, with particularity, the process whereby you answered these written questions, including the name of any individual who helped draft, review, or edit the answers.

Response: I wrote the responses to your questions for the record. In doing so, I reviewed previous nominees' answers to similar questions for the record and consulted with attorneys at the White House and the U.S. Department of Justice.

16. What do you understand originalism to mean?

Response: There are a variety of articulations of originalism in academic literature, and the term therefore may mean different things to different people. But generally speaking, I understand originalism to mean that the Constitution is the supreme law of the land; that its meaning was fixed at the time the relevant constitutional provision was written or ratified; and that judges must enforce that original meaning unless or until the Constitution is amended through the constitutionally prescribed amendment process.

17. Do you consider yourself an originalist?

Response: I have not been nominated to serve as a judge. As a lawyer, I have not limited myself to any single judicial philosophy, but I consider it important to be knowledgeable about originalism and fluent in originalist arguments given the fact that many judges have an originalist judicial philosophy. As a Commissioner on the U.S. Sentencing Commission, if confirmed, I will comply with all binding precedent, whether or not it is originalist.

18. What do you understand textualism to mean?

Response: Generally speaking, I understand textualism to mean that the statutory text is the law and that judges must therefore enforce the statutory text unless or until the statute is amended through the constitutionally prescribed amendment process.

19. Do you consider yourself a textualist?

Response: I have not been nominated to serve as a judge. As a lawyer, I have not limited myself to any single judicial philosophy, but I consider it important to be knowledgeable about textualism and fluent in textualist arguments given the fact that many judges have a textualist judicial philosophy. As a Commissioner on the U.S. Sentencing Commission, if confirmed, I will comply with all binding precedent, whether or not it is textualist.

20. 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. Would you consult and cite legislative history to analyze or interpret a federal statute?

Response: I would not foreclose consulting legislative history when analyzing or interpreting federal statutes relevant to the U.S. Sentencing Commission and the U.S. Sentencing Guidelines, particularly if the relevant portions of those statutes have ambiguity. However, absent binding precedent to the contrary, the statutory text is the law and is generally the best indicator of congressional intent. The Commission should therefore implement the relevant statutory text unless or until the state is amended through the constitutionally prescribed amendment process.

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

Response: See my response to Question 21(a).

21. 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: Under our Constitution, no law enforcement official, prosecutor, or judge may ever subject a defendant to prosecution, or to different punishments or penalties, on the basis of the defendant's race. Our criminal justice system must be colorblind, just as our Constitution is colorblind. *Allen v. Milligan*, 147 S. Ct. 1377 (2026). Federal judges must ensure that their own decisionmaking in criminal cases, including at sentencing, is colorblind. And they must fairly adjudicate any claims of purposeful racial discrimination by law enforcement officials or prosecutors in a particular case. See, e.g., *McClesky v. Kemp*, 481 U.S. 279 (1987).

22. 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. If you have not disclosed a copy of the publication or a transcript of the statement to the Judiciary Committee, attach a copy or link to the materials and 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 to all subparts: As indicated in my Questionnaire, I have litigated cases involving some of these topics. Other cases I have litigated involving any of these topics are publicly available. To the best of my knowledge, all written material I have published or public statements I have made outside the litigation context relating to any of these topics are listed in my Questionnaire.

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

Response: Yes.

24. Does the U.S. Constitution apply to non-citizens present in the United States?

Response: The Supreme Court has held that at least certain constitutional provisions apply to non-citizens present in the United States. *E.g., Zadvydas v. Davis*, 533 U.S. 678 (2001) (the Due Process Clause).

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

Response: Subject to the limits of the nondelegation doctrine, the Supreme Court has long held that it is constitutional for Congress to delegate rulemaking power to federal agencies. *See Fed. Comm’n Comm’n v. Consumers’ Research*, 606 U.S. 656 (2025). Relatedly, the Supreme Court has rejected a non-delegation challenge to the Sentencing Guidelines. *See Mistretta v. United States*, 488 U.S. 361 (1989).

26. 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: Yes. As a member of the leadership team of the U.S. Department of Justice who now serves as General Counsel and Senior Advisor to a White House Task Force that Stephen Miller helps lead, I have communicated with Stephen Miller. However, to the best of my knowledge, Stephen Miller was not involved in my selection process.

27. 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: Yes. As a member of the leadership team of the U.S. Department of Justice while Attorney General Blanche served as the Deputy Attorney General, and as a Counselor to the Attorney General during a short period while Attorney General Blanche served as the Acting Attorney General, I communicated with Attorney General Blanche. I have also spoken to Attorney General Blanche in professional and social settings since I joined the White House Task Force to Eliminate Fraud.

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

Response: Yes. As a member of the leadership team of the U.S. Department of Justice while Judge Bove served as the Principal Associate Deputy Attorney General, I communicated with Judge Bove. I have also spoken to Judge Bove in social settings after his confirmation to the U.S. Court of Appeals to the Third Circuit. However, to the best of my knowledge, Judge Bove was not involved in my selection process.

29. 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.

30. 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 to all subparts: To the best of my knowledge, no.

31. 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: To the best of my knowledge, no.

**Questions for the Record from Senator Alex Padilla
Senate Judiciary Committee
“Nominations”**

August 5, 2026

Questions for Jason Manion (Nominee to the United States Sentencing Commission):

1. The following are yes or no questions related to the 2020 election:

a. According to Wisconsin’s certified 2020 General Election results, did Joe Biden receive more than 19,000 votes more than Donald Trump?

Response: I am unaware of what the certified vote counts were in any state in the 2020 election.

b. According to Pennsylvania’s certified 2020 General Election results, did Joe Biden receive more than 80,000 votes more than Donald Trump?

Response: See my answer to Question 1(a).

c. According to Georgia’s certified 2020 General Election results, did Joe Biden receive more than 11,000 votes more than Donald Trump?

Response: See my answer to Question 1(a).

d. According to Arizona’s certified 2020 General Election results, did Joe Biden receive more than 10,000 votes more than Donald Trump?

Response: See my answer to Question 1(a).

e. According to Nevada’s certified 2020 General Election results, did Joe Biden receive more than 20,000 votes more than Donald Trump?

Response: See my answer to Question 1(a).

f. According to Michigan’s certified 2020 General Election results, did Joe Biden receive more than 154,000 votes more than Donald Trump?

Response: See my answer to Question 1(a).

g. Setting aside the precise vote totals, do you accept that, according to each state’s certified results, Joe Biden received more votes than Donald Trump in Wisconsin, Pennsylvania, Georgia, Arizona, Nevada, and Michigan in the 2020 General Election?

Response: See my answer to Question 1(a).

h. Are you aware of any evidence that Joe Biden did not win more votes than Donald Trump in each of the states listed above? If so, please explain.

Response: See my answer to Question 1(a).

2. Some judicial nominees have stated that Joe Biden “legally” won the 2020 election or won the election “as a matter of law.” Setting aside any legal characterization: as a matter of fact, did Joe Biden win the 2020 presidential election?

Response: On January 7, 2021, Congress certified that Joseph Biden won the majority of electoral votes. Joseph Biden thereafter served as the 46th President of the United States. Beyond that, it is my understanding that, under the U.S. Sentencing Commission’s Code of Conduct, “[a]ll commissioners, whether judges or not, are subject to the ethical canons applicable to federal judges contained in the Code of Conduct for United States Judges.” As a nominee to a position subject to these Codes of Conduct, and consistent with the practice of prior nominees, it would be improper for me to comment on an issue that is the subject of ongoing political controversy.

3. Do you have any reason to believe that the outcome of any state’s presidential vote was impacted by irregularities or fraud? If so, please explain.

Response: See my answer to Question 2.

4. On January 7, 2021, a joint session of Congress certified 306 electoral votes for Joseph Biden and 232 electoral votes for Donald Trump. Joe Biden received more votes than Donald Trump across 25 states, DC, and NE-02 in the 2020 election.

a. Do you have any reason to believe that Congress was wrong to certify each state’s electoral votes?

Response: See my answer to Question 2.

5. More than 60 federal and state courts, including courts presided over by judges appointed by Republican presidents, dismissed legal challenges to the 2020 presidential election results for lack of evidence, lack of standing, or lack of merit.

a. Do you have any reason to believe that any of those courts reached the wrong conclusion?

Response: See my answer to Question 2.

b. Do you have any reason to believe that any one of those judges -- many of whom were appointed by Republican presidents, including President Trump -- acted improperly or in bad faith in dismissing those challenges?

Response: See my answer to Question 2.

6. Have you ever, publicly or in an official capacity, questioned or disparaged: (i) the legitimacy of the 2020 presidential election results; (ii) Congress's certification of those results; or (iii) any federal or state court ruling rejecting legal challenges to those results? If so, please explain.

Response: See my answer to Question 2.

7. To the extent you would decline to answer any election-related question on the ground that the 2020 result is a "subject of political debate," please identify what you believe remains genuinely debatable about whether Joe Biden received more votes than Donald Trump in the states at issue, given that those results were certified by the responsible state officials and upheld in more than sixty state and federal proceedings.

Response: See my answer to Question 2.

8. In the documents you provided the Senate Judiciary Committee, have you identified every publicly accessible -- or previously publicly accessible -- social media, blog, forum, or other online account that you have created, maintained, controlled, contributed to, or posted under, on any platform?

If not, please identify any publicly accessible social media, blog, forum, or other online account that you have created, maintained, controlled, contributed to, or posted under, on any platform. Please include any non-private (or any previously non-private) accounts on Twitter/X, Facebook, Instagram, LinkedIn, YouTube, TikTok, Truth Social, Substack, Reddit, any personal blogs or websites, or any comparable platforms. For each account, please state:

- a. the platform or service;
- b. the username, handle, screen name, and any display name associated with the account;
- c. the approximate dates the account was active;
- d. whether the account was maintained in your own name, under a pseudonym, or anonymously; and
- e. the account's current status (active, deactivated, deleted, or set to private).

Response: To the best of my recollection and knowledge, I identified every responsive published writing and public statement in my responses to Question 12 of my Questionnaire.

9. Since you were first under consideration for this nomination, have you deleted, deactivated, archived, restricted the visibility of, or removed content from any online account, or

directed or requested that anyone does so on your behalf? If so, please identify the account and describe what was changed or removed and when.

Response: To the best of my recollection, no.

10. Justices Sotomayor and Barrett have each asked this Commission to fix the career offender guidelines, which have led to differing approaches across judicial circuits. Under the current framework, the same conduct can lead to an additional decade behind bars depending on which circuit sentences the defendant.

a. In your view, should a prior drug conviction count toward career offender status if the drug was illegal under state law but not under federal law?

Response: Because members of the Supreme Court have recently asked the U.S. Sentencing Commission to resolve this circuit split, there is a reasonable likelihood that, if confirmed, I will be called upon to vote on one or more amendments dealing with this issue. It would be inappropriate for me to prejudge any possible amendments to the Guidelines, including this Guideline. In considering this issue, however, I intend to work collaboratively with the bipartisan slate of Commissioners who currently serve on the U.S. Sentencing Commission, consult with the Commission's expert staff, and consider all relevant data, research, and input from all interested parties.

b. When the drug schedule at the time of a defendant's prior conviction differs from the schedule at the time of federal sentencing, which drug schedule should apply: the one in effect at conviction, or the one in effect at sentencing?

Response: See my answer to Question 10(a).

11. If confirmed, will you commit to reaching your own conclusions on any amendment to the Sentencing Guidelines independent of any view or position expressed by the Department of Justice?

Response: The Sentencing Commission is an independent agency that sits within the Judicial Branch, not the Executive Branch. As such, it is and should be independent from the Executive Branch. If I am confirmed to this position, I will serve on the Sentencing Commission as my own person, not as a representative of the U.S. Department of Justice or the White House.

12. Congress established the USSC as "an independent commission in the judicial branch of the United States."

a. In your own words, what does it mean for the Sentencing Commission to be an independent body and what is the value in its independence?

Response: The U.S. Sentencing Commission's independence derives from at least two statutory features. First, Congress located the Commission in the Judicial Branch, not the Executive Branch. See 28 U.S.C. § 991(a). Second, Congress provided the

Commissioners statutory protections from removal, meaning that the President can remove a Commissioner from the Commission “only for neglect of duty or malfeasance in office or for other good cause shown.” See *id.*

One of the reasons that this independence is valuable is that the Sentencing Guidelines are (since *United States v. Booker*, 543 U.S. 220 (2005)) only advisory, not mandatory. Sentencing judges have discretion to vary upward or downward from the advisory Guidelines range, including because of policy disagreements with the Guidelines. E.g., *Kimbrough v. United States*, 552 U.S. 85 (2007). Given this discretion, sentencing judges can reasonably be expected to vary from the advisory Guidelines range more often if they do not trust the process that created them. And the more often that sentencing judges do so, the less likely the Guidelines are to accomplish one of their primary goals—reducing sentencing disparities among similarly situated defendants.

If confirmed, I will serve on the Sentencing Commission as my own person, not as a representative of the U.S. Department of Justice or the White House. In executing my duties on the Commission, I intend to work collaboratively with the bipartisan slate of Commissioners who currently serve on the Commission, consult with the Commission’s expert staff, and consider all relevant data, research, and input from all interested parties.

b. If confirmed, what steps will you take to ensure you remain independent as a commissioner?

Response: See my answer to Question 12(a).

13. Do you believe that federal drug sentencing guidelines are too high, too low, or about right?

Response: There is a reasonable likelihood that, if confirmed, I will be called upon to vote on amendments to the drug-related U.S. Sentencing Guidelines. It would be inappropriate for me to prejudge any possible amendment to the Guidelines. In considering any such amendment, however, I intend to work collaboratively with the bipartisan slate of Commissioners who currently serve on the U.S. Sentencing Commission, consult with the Commission’s expert staff, and consider all relevant data, research, and input from all interested parties.

14. You are currently General Counsel of the White House Task Force to Eliminate Fraud.

a. Please describe how the Task Force decides which matters to refer to DOJ and what role you play in referral decisions as General Counsel, if any.

Response: Since May, I have served as General Counsel and Senior Advisor for the White House Task Force to Eliminate Fraud. In that role, I have provided legal advice on various anti-fraud efforts to policymakers in the White House and in Executive Branch agencies. Generally speaking, I have advised policymakers on how to achieve the important policy goal of combatting waste, fraud, and abuse, and how to do so while complying with the Constitution and laws of the United States.

However, for several reasons, I am unable to provide additional details about my involvement in the White House Task Force to Eliminate Fraud. First, as an attorney, I have an ethical obligation to preserve confidential communications and advice that I may have provided to clients. Second, it would be inappropriate for me to disclose legal advice or other confidential information, arguably to the detriment of my clients; it would be especially inappropriate for me to disregard my ethical obligations to advance my personal interest in confirmation. Third, efforts to obtain the Executive Branch's confidential information in the context of a confirmation process 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 process 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 (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).

Therefore, like numerous nominees before me who were serving, or had previously served, in the Executive Branch at the time of their nomination, I am able to describe in generalities my role and responsibilities as an Executive Branch official but I am not able to disclose details of legal advice or confidential information. See Appendix A: Statements by Prior Nominees Regarding Non-Disclosure of Internal Government Deliberations, Response by Judge Emil J. Bove, III to question for the record by Senator Charles E. Grassley, available at <https://www.judiciary.senate.gov/imo/media/doc/27d018a5-ae4f-87e7-c6b4-e7a3034d2ce7/2025-06-25%20-%20QFR%20Responses%20-%20Bove.pdf#page=8>.

b. If confirmed, you would vote on policies which set recommended sentences for fraud, including in cases the taskforce generates. If confirmed, will you recuse yourself from any Commission vote or deliberation impacting matters within the Task Force's purview?

Response: If I am confirmed to this position, I will serve on the Sentencing Commission as my own person, not as a representative of the Department or the White House. In executing my duties on the Commission, I intend to work collaboratively with the bipartisan slate of Commissioners who currently serve on the Commission, consult with the Commission's expert staff, and consider all relevant data, research, and input from all interested parties. And if confirmed, in the event of a potential conflict of interest, I would consult with my colleagues and the Administrative Office of the United States Courts and recuse myself where necessary. I will also comply with all applicable statutes and binding policies relevant to this office.

Senator Peter Welch
Senate Judiciary Committee
Written Questions for Jason Manion
Hearing on “Nominations”
Wednesday, August 5, 2026

1. You have provided legal advice to policymakers in the White House and the Executive Branch through the White House Task Force to Eliminate Fraud. Please explain who you have advised and on which matters they have asked you to advise them.

Response: In my role as General Counsel and Senior Advisor to the White House Task Force to Eliminate Fraud, I have provided legal advice on various anti-fraud efforts to policymakers in the White House and in Executive Branch agencies. Generally speaking, I have advised policymakers on how to achieve the important policy goal of combatting waste, fraud, and abuse, and how to do so while complying with the Constitution and laws of the United States.

However, for several reasons, I am unable to provide additional details. First, as an attorney, I have an ethical obligation to preserve confidential communications and advice that I may have provided to clients. Second, it would be inappropriate for me to disclose legal advice or other confidential information, arguably to the detriment of my clients; it would be especially inappropriate for me to disregard my ethical obligations to advance my personal interest in confirmation. Third, efforts to obtain the Executive Branch’s confidential information in the context of a confirmation process 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 process 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 (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).

Therefore, like numerous nominees before me who were serving, or had previously served, in the Executive Branch at the time of their nomination, I am able to describe in generalities my role and responsibilities as an Executive Branch official but I am not able to disclose details of legal advice or confidential information. *See* Appendix A: Statements by Prior Nominees Regarding Non-Disclosure of Internal Government Deliberations, Response by Judge Emil J. Bove, III to question for the record by Senator Charles E. Grassley, *available at* <https://www.judiciary.senate.gov/imo/media/doc/27d018a5-ae4f-87e7-c6b4-e7a3034d2ce7/2025-06-25%20-%20QFR%20Responses%20-%20Bove.pdf#page=8>.

2. You have been a member of the Federalist Society since 2006. Please explain the nature of your participation and activities in the Federalist Society, including any leadership roles you have held in the organization.

Response: As indicated in my Questionnaire, I first joined the Federalist Society in 2015, not in 2006. I have attended conferences and events organized by the Federalist Society, introduced or

participated in panels organized by the Federalist Society or by law student chapters of the Federalist Society, and volunteered in various leadership positions within the Federalist Society. My leadership roles in the Federalist Society are listed in my Questionnaire.

3. You were a member of the Center for Renewing America from 2021-2025. Please explain the nature of your work and responsibilities in this role.

Response: I am not, and have never been, a member of the Center for Renewing America.

4. You were a legal advisory board member for the Article III Project in September 2020. Please describe the nature of your work and responsibilities in this role.

Response: For a short period in September 2020, I assisted the Article III Project with research. I resigned this role when I accepted a position as Special Counsel in Senator Ted Cruz's office for the confirmation of Justice Amy Coney Barrett.

Questions for the Record

Jason D. Manion – Nominee to be U.S. Sentencing Commissioner
Sen. Adam Schiff (D-CA)

1. How would you define public corruption as a matter of federal law?

Response: I am not familiar with any single definition of “public corruption” in federal law. The term “public corruption” is a broad term, and its definition would depend on the facts and the statutes at issue in a particular case. That said, I understand that there are several sections of Title 18 of the United States Code that are used to prosecute conduct that is sometimes referred to colloquially as public corruption, including 18 U.S.C. §§ 201, 666, 1341, and 1343.

2. The Sentencing Commission is designed to be a bipartisan, independent body within the judicial branch. You currently serve as General Counsel to the Vice President’s Fraud Task Force inside the White House.

a. Do you agree that the Sentencing Commission should operate independently from the Executive Branch?

Response: Yes, the U.S. Sentencing Commission is an independent agency that sits within the Judicial Branch, not the Executive Branch. As such, it is and should be independent from the Executive Branch.

b. You are currently detailed to the White House from the U.S. Attorney’s Office for the Northern District of Ohio. Have you provided objective legal advice in your current role, given that you are on detail from the U.S. Attorney’s Office?

Response: Yes.

3. What do you view as the role of the U.S. Sentencing Commission in the criminal justice system?

Response: One of the U.S. Sentencing Commission’s primary jobs is to promulgate and revise the U.S. Sentencing Guidelines, which apply at sentencing in federal criminal cases. This is certainly an important role, but it is also a limited one. Congress retains the primary responsibility for setting federal sentencing policy, and the Commission frequently follows Congress’s lead or instructions when amending the Guidelines. And before a Guideline amendment becomes effective, Congress has the power to review it and disapprove it. The Guidelines are (since *United States v. Booker*, 543 U.S. 220 (2005)) also only advisory, not mandatory. Sentencing judges have discretion to vary upward or downward from the advisory Guidelines range, including because of policy disagreements with the Guidelines. *E.g.*, *Kimbrough v. United States*, 552 U.S. 85 (2007).

Eliminating disparities in sentencing, including racial disparities, was one of the primary reasons that Congress established the Commission. Under our Constitution, no law enforcement official,

prosecutor, or judge may ever subject a defendant to prosecution, or to different punishments or penalties, on the basis of the defendant's race. Our criminal justice system must be colorblind, just as our Constitution is colorblind. *Allen v. Milligan*, 147 S. Ct. 1377 (2026). This concept extends to the Guidelines. In addition to the constitutional constraint just mentioned, federal law requires the Commission to ensure that the Guidelines "are entirely neutral as to the race ... of offenders." 28 U.S.C. § 994(d). By enacting race-neutral Guidelines, the Commission can play an important role in reducing or eliminating racial disparities in sentencing, especially when sentencing judges sentence defendants within the applicable Guidelines range. But even when the sentencing judge does not, the race-neutral Guidelines nevertheless provide the "starting point and ... initial benchmark" for sentencing. *Gall v. United States*, 552 U.S. 38, 49 (2007). The Commission's Office of Research and Data also plays an important role in collecting, analyzing, and disseminating sentencing data that can inform Congress, the Commission, sentencing judges, and other interested parties about whether and to what extent racial disparities continue to exist in our criminal justice system.

- a. Do you believe it is important to eliminate racial disparities in the sentencing guidelines? If so, what steps would you take to solve this problem.

Response: See my answer to Question 3.

- b. If the Attorney General issued a sentencing memorandum that the Commission's own empirical data showed increased unwarranted racial disparities, how would you respond as a Commissioner?

Response: See my answer to Question 3.

- c. What is your position on the role and scope of compassionate release in the criminal justice system?

Response: Compassionate release is an important exception to the general rule that a sentencing judge cannot modify a term of imprisonment once it has been imposed. 18 U.S.C. § 3582(c)(1). Compassionate release is often based on extraordinary and compelling reasons. *Id.*, § 3582(c)(1)(a)(i). The Commission's primary role in the compassionate-release process is to issue policy statements to "describe what should be considered extraordinary and compelling reasons for sentence reduction." 28 U.S.C. § 994(t). In doing so, however, the Commission must be mindful of its limited statutory authority in this process and the constraints of the relevant statutory language. *Rutherford v. United States*, 146 S. Ct. 1320 (2026).

- d. What is your position on the role of supervised release in the criminal justice system?

Response: Supervised release is an important mechanism designed to further rehabilitate defendants and to assist defendants in transitioning back into society while remaining under supervision of the court. The Commission has promulgated several Guidelines that govern the imposition of supervised release; the term of supervised release; the conditions of supervised

release; and the modification, early termination, and extension of supervised release. U.S.S.G. §§ 5D1.1-5D1.4.

4. Most of the current Commissioners on the Sentencing Commission have decades of relevant experience. You have less than a decade of experience as a practicing attorney.

a. How will you make up for your limited legal experience?

Response: My federal prosecution experience, combined with my additional high-level experience in all three branches of federal government, state government, and private practice, has prepared me well to serve as a Commissioner on the U.S. Sentencing Commission. As indicated in my Questionnaire, I served as an Assistant United States Attorney, where I handled dozens of criminal appeals, including many of my office's most complex criminal sentencing issues under the U.S. Sentencing Guidelines and various federal statutes. As just one example, I argued on behalf of the United States before an eighteen-judge *en banc* panel of the U.S. Court of Appeals for the Sixth Circuit in a complicated sentencing case that resolved an intra-circuit split about whether various Ohio robbery offenses qualified as "crimes of violence" under U.S. Sentencing Guideline § 4B1.2. I have also handled several contested Sentencing Guidelines issues at criminal sentencings in district court.

b. You noted that you have not served as sole or chief counsel in any case tried to verdict or judgment in a trial court. How will you make up for your limited experience with criminal matters at the trial court level?

Response: See my answer to Question 4(a).

5. You serve as General Counsel of Vice President Vance's new Fraud Task Force.

a. Do you attend the meetings of the Task Force as its General Counsel?

Response: Since May, I have served as General Counsel and Senior Advisor for the White House Task Force to Eliminate Fraud. In that role, I have provided legal advice on various anti-fraud efforts to policymakers in the White House and in Executive Branch agencies. Generally speaking, I have advised policymakers on how to achieve the important policy goal of combatting waste, fraud, and abuse, and how to do so while complying with the Constitution and laws of the United States.

However, for several reasons, I am unable to provide additional details about my involvement in the White House Task Force to Eliminate Fraud. First, as an attorney, I have an ethical obligation to preserve confidential communications and advice that I may have provided to clients. Second, it would be inappropriate for me to disclose legal advice or other confidential information, arguably to the detriment of my clients; it would be especially inappropriate for me to disregard my ethical obligations to advance my personal interest in confirmation. Third, efforts to obtain the Executive Branch's confidential information in the context of a confirmation process 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 process 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 (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).

Therefore, like numerous nominees before me who were serving, or had previously served, in the Executive Branch at the time of their nomination, I am able to describe in generalities my role and responsibilities as an Executive Branch official but I am not able to disclose details of legal advice or confidential information. *See Appendix A: Statements by Prior Nominees Regarding Non-Disclosure of Internal Government Deliberations, Response by Judge Emil J. Bove, III to question for the record by Senator Charles E. Grassley, available at* <https://www.judiciary.senate.gov/imo/media/doc/27d018a5-ae4f-87e7-c6b4-e7a3034d2ce7/2025-06-25%20-%20QFR%20Responses%20-%20Bove.pdf#page=8>.

b. President Trump’s Executive Order says that the Chairman of the task force, Vice President Vance, shall convene regular meetings. How many of those meetings have taken place?

Response: See my answer to Question 5(a).

c. What has been your role on the task force? Who are the other members of the task force? What are those members’ roles?

Response: See my answer to Question 5(a).

d. What substantive decisions has the task force advocated for?

Response: See my answer to Question 5(a).

6. In April of this year, President Trump stated that Vice President’s focus on fraud “will be EVERYWHERE, but primarily in those Blue States where CROOKED DEMOCRAT POLITICIANS, like those in California, Illinois, Minnesota (Somalia beware!), Maine, New York, and many others, have had a ‘free for all’”

a. Do you think it is appropriate for prosecutors to make prosecutorial decisions based on political affiliation or political motivations?

Response: The U.S. Department of Justice is investigating and prosecuting individuals for fraud throughout the entire country. And the Department prohibits federal prosecutors and agents from making decisions regarding investigations and prosecutions based on certain political considerations. U.S. Dep’t of Justice, Justice Manual § 9-85.500 (2023).

7. Vice President Vance announced via X.com that he referred Minnesota state officials to the Department of Justice for criminal investigation based on a letter he received from the House Committee on Oversight and Government Reform Chairman, James Comer. Vice President Vance wrote a letter to Assistant Attorney General Colin MacDonald, of the newly imagined National Fraud Enforcement Division, urging him to investigate Minnesota state officials.

a. Did you assist in making Vice President Vance's referral to the DOJ?

Response: I did not assist in making this referral to the U.S. Department of Justice.

b. What was the purpose of that referral?

Response: See my answer to Question 7(a).

c. Did you know that Chairman Comer had already sent the same letter and report to AAG McDonald?

Response: See my answer to Question 7(a).

8. You co-authored an amicus brief in *Ramirez v. Collier*, opposing a stay of execution for a detainee alleging violations of the Religious Land Use and Institutionalized Persons Act (RLUIPA) due to the state's refusal to allow his pastor to lay hands on him and pray over him during the execution. In an 8-1 decision, the Supreme Court ruled that the detainee was likely to succeed on his RLUIPA claim, reversed the stay denial, and remanded for further proceedings.

a. In the brief, you argued that "victims suffer immeasurable harm from excessive delays in executing sentences." What do you view as the role of victims in determining sentencing, both at an individual level and a policy level?

Response: Victims of crime play an important role in the sentencing process. In individual cases, federal law guarantees the victims of crime many rights, including the right to proceedings that are free from unreasonable delay, the right to receive timely notice of the sentencing hearing, the right not to be excluded from the sentencing hearing, and the right to be heard at sentencing. 18 U.S.C. § 3771(a). The U.S. Sentencing Guidelines also include various adjustments that consider the victim of crime, such as enhancements if the defendant targeted an unusually vulnerable victim or if the victim was a law enforcement officer. U.S.S.G. §§ 3A1.1, 3A1.2.

b. What is your view on capital punishment?

Response: The death penalty is constitutional. *See, e.g., Bucklew v. Precythe*, 587 U.S. 119 (2019). Whether the United States should continue to have the death penalty is therefore a decision for Congress, the President, and the American people. It is for the political branches and the American people, not the U.S. Sentencing Commission, to decide whether to continue to have a federal death penalty.

9. At your Senate Judiciary Committee nomination hearing, Senator Blumenthal asked you which candidate won the 2020 election. Instead of answering the question, you noted that you agreed with the substance of your co-panelists' answers, all of which refused to clearly answer the question. You have also made campaign contributions to Donald J. Trump for President and to the Trump National Committee JFC.

a. As a matter of fact, which of the two general election candidates lost the 2020 election?

Response: On January 7, 2021, Congress certified that Joseph Biden won the majority of electoral votes. Joseph Biden thereafter served as the 46th President of the United States. On January 6, 2025, Congress certified that Donald J. Trump won the majority of electoral votes. Donald J. Trump is currently serving as the 47th President of the United States.

b. As a matter of fact, which of the two general election candidates lost the 2024 presidential election?

Response: See my answer to Question 9(a).

c. As a matter of fact, did Donald Trump lose the 2020 election? Yes or no.

Response: See my answer to Question 9(a).

d. Who won the popular vote in the 2020 presidential election?

Response: See my answer to Question 9(a).

e. Who won the majority of the electoral college votes in the 2020 presidential election?

Response: See my answer to Question 9(a).

f. Do you have any doubts about the outcome or integrity of the 2020 presidential election results?

Response: See my answer to Question 9(a).