Senator Chuck Grassley, Ranking Member
Questions for the Record
Omar Williams
Judicial Nominee to the U.S. District Court for the District of Connecticut

1. **How, if at all, should judges prevent implicit bias in *voir dire*?**

   Response: Judges are charged with ensuring the fairness of all aspects of court proceedings, to include jury selection. As a state court judge, I have regularly reminded jurors about their obligation to be fair and to carefully and thoughtfully weigh the evidence in their case, without regard to any bias or prejudice. This, of course, also is important for judges to remember.

2. **What is implicit bias?**

   Response: While I leave the definition to experts and social scientists, I believe implicit bias refers to the unconscious shortcuts our mind makes in processing information, resulting in stereotypes or in undue favor for, or bias against, a person or a group of people.

3. **Do you have any implicit biases? If so, what are they?**

   Response: In my training as a state judge, I have learned that everyone is susceptible to implicit bias, and that it is our responsibility to address it within ourselves. In adhering to Canons 2 and 3 of the Code of Conduct, I find it most helpful to identify any such bias and to prevent it from interfering with my work, as I have done in my service as a state court judge. I will continue this effort if I am fortunate enough to be confirmed as a United States District Judge.

4. **In the context of federal case law, what is super precedent? Which cases, if any, count as super precedent?**

   Response: I believe super precedent commonly refers to case law so foundational to our American legal identity that it is not likely to be challenged (or, if challenged, that would be highly unlikely to be overturned), but I do not believe it to be a legal term defined through federal case law or through legislation. There is debate over which cases constitute "super precedent," but if I am fortunate enough to be confirmed, I will follow all binding precedent from the Supreme Court of the United States and from the Second Circuit.

5. **Is it legal for police to stop and frisk someone based on a reasonable suspicion of involvement in criminal activity?**

Response: Yes, *Terry v. Ohio*, 392 U.S. 1, 30 (1968) allows for an open-hand pat down of a suspect's outer clothing for weapons when an officer has reasonable and articulable suspicion to believe that "criminal activity may be afoot and that the person with whom he is dealing may be armed and presently dangerous."

6. **Should law firms undertake the pro bono prosecution of crimes?**

   Response: Rather than opining on what the law should allow, our courts should defer to what the law permits.

7. **Do you agree with Judge Ketanji Brown Jackson in 2013 when she said she did not believe in a "living constitution"?**

   Response: I am unfamiliar with Judge Brown Jackson's comments or their context, but judges must follow the law as it is written, and as interpreted in binding precedent.

8. **Is it possible for private parties—like law firms, retired prosecutors, or retired judges—to prosecute federal criminals in the absence of charges being actively pursued by federal authorities?**

   Response: I am unaware of any legal authority for the private prosecution of federal crimes.

9. **The Federalist Society is an organization of conservatives and libertarians dedicated to the rule of law and legal reform. Would you hire a member of the Federalist Society to serve in your chambers as a law clerk?**

   Response: Yes, I would hire a capable law clerk regardless of their legal philosophy, political leanings, or other personal beliefs, so long as they would be able to diligently follow the law and to faithfully serve the public.

10. **Absent a traditional conflict of interest, should paying clients of a law firm be able to prevent other paying clients from engaging the firm?**

    Response: Judges must follow the law (and ethical canons) as written rather than opining on what should be permissible. I have done this as a state court judge, and I will continue to do so if fortunate enough to be confirmed.

11. **As a matter of legal ethics do you agree with the proposition that some civil clients don't deserve representation on account of their identity?**

    Response: I am unfamiliar with any ethical canon that allows someone's identity to render them unworthy of legal representation.

12. **Do you agree with the proposition that some clients do not deserve representation on account of their:**

    a. **Heinous crimes?**

       Response: No.

    b. **Political beliefs?**

       Response: No.

    c. **Religious beliefs?**

       Response: No.

13. **Should judicial decisions take into consideration principles of social "equity"?**

    Response: I have not seen social equity as a factor courts should consider in making any legal decisions. To the extent this question asks my thoughts on whether judges ought to be able to consider social equity, I reiterate that judges must follow the law as it exists rather than offering general opinions on what the law should allow.

14. **Do you believe that we should defund police departments? Please explain.**

    Response: Questions about the level of funding that police departments should receive are policy decisions that should be made by the other branches of government.

15. **Do you believe that local governments should reallocate funds away from police departments to other support services? Please explain.**

    Response: Questions about the level of funding that police departments should receive are policy decisions that should be made by the other branches of government.

16. **Do you believe that the federal government should reallocate funds away from the Department of Justice, specifically, U.S. Attorney's Offices, to provide greater support to the Federal Public Defenders?**

    Response: Questions about the level of funding that U.S. Attorney's Offices should receive are policy decisions that should be made by the other branches of government.

17. **Is a social worker qualified to respond to a domestic violence call where there is an allegation that the aggressor is armed?**

Response: As a sitting state court judge, I rule on legal matters presented to me and therefore should not opine on general matters such as the possible emergency response qualifications of social workers.

18. Do you believe legal gun purchases have caused the violent crime spike?

Response: As a sitting state court judge, I rule on legal matters presented to me and therefore should not opine on general matters such as the causal factors related to any increases or decreases in violent crime.

19. Do rogue gun dealers constitute a substantial factor in the amount of crimes committed with firearms?

Response: As a sitting state court judge, I rule on legal matters presented to me and therefore should not opine on general matters such as the factors that substantially impact the number of crimes committed with firearms.

20. Is gun violence a public-health crisis?

Response: As a sitting state court judge, I rule on legal matters presented to me and therefore should not opine on general matters such as whether gun violence is a public-health crisis.

21. Is racism a public-health crisis?

Response: As a sitting state court judge, I rule on legal matters presented to me and therefore should not opine on general matters such as whether racism is a public-health crisis.

22. Is the federal judiciary affected by implicit bias?

Response: Many experts (including those who have presented at training sessions I have attended) believe everyone and every institution has implicit bias. Karen Steinhauser, EVERYONE IS A LITTLE BIT BIASED (Mar. 16, 2020), https://www.americanbar.org/groups/business_law/publications/blt/2020/04/everyone-is-biased/.

23. Do you have implicit bias? How do you know if it's implicit?

Response: I am not an expert in implicit bias, but I believe each of us has some form of implicit bias and that it is our obligation to identify it and to address it. Through assessment and self-awareness, it is possible to identify bias and to counteract it.

a. If you answered yes, how does implicit bias impact you in your day to day role as a prosecutor, particularly as it pertains to your:

i. Recommendations regarding pre-trial detention?

Response: I have never served as a prosecutor, but in my role as a state court judge, I always am mindful not to favor or disfavor anyone because of how they present (for example, in terms of appearance, name, race, ethnicity, sex, sexual orientation, kindness, rudeness, or their lawyer's characteristics) but to make my decisions, including pre-trial detention decisions, based on the facts in that person's case and the factors that are set by state law and applicable legal precedent.

ii. Recommendations regarding sentencing?

Response: I have never served as a prosecutor, but in my role as a state court judge, I always am mindful not to favor or disfavor anyone because of how they present (for example, in terms of appearance, name, race, ethnicity, sex, sexual orientation, kindness, rudeness, or their lawyer's characteristics) but to make my decisions, including sentencing decisions, based on the facts in that person's case and the factors that are set by state law and applicable legal precedent.

24. You can answer the following questions yes or no:

a. Was *Brown v. Board of Education* correctly decided?

Response: Yes. Deference to precedent falls within the primary canon of the Code of Conduct for Unites States Judges, and Canon 3A(6) requires judges to refrain from public comment about cases presently before the court and those that reasonably might appear before the court in the future. There are very few cases that are so central to our core American legal identity and that are unlikely to be the subject of litigation again in my lifetime that allow for a judge's response. *Brown v. Board of Education* is so central to our legal identity as a nation, and so unlikely for its subject matter to return to court for litigation within my lifetime, that I can say with confidence that it was correctly decided.

b. Was *Loving v. Virginia* correctly decided?

Response: Yes. Deference to precedent falls within the primary canon of the Code of Conduct for Unites States Judges, and Canon 3A(6) requires judges to refrain from public comment about cases presently before the court and those that reasonably might appear before the court in the future. There are very few cases that are so central to our core American legal identity and that are unlikely to be the subject of litigation again in my lifetime that allow for a judge's response.

Loving v. Virginia is so central to our legal identity as a nation, and so unlikely for its subject matter to return to court for litigation within my lifetime, that I can say with confidence that it was correctly decided.

c. Was *Griswold v. Connecticut* correctly decided?

Response: With deference to Canons 1 and 3A(6) of the Code of Conduct, and in refraining from comment on matters that might appear before (or return to) the court, I respectfully decline to assess the correctness of this binding decision of the Supreme Court.

d. Was *Roe v. Wade* correctly decided?

Response: With deference to Canons 1 and 3A(6) of the Code of Conduct, and in refraining from comment on matters that might appear before (or return to) the court, I respectfully decline to assess the correctness of this binding decision of the Supreme Court.

e. Was *Planned Parenthood v. Casey* correctly decided?

Response: With deference to Canons 1 and 3A(6) of the Code of Conduct, and in refraining from comment on matters that might appear before (or return to) the court, I respectfully decline to assess the correctness of this binding decision of the Supreme Court.

f. Was *Gonzales v. Carhart* correctly decided?

Response: With deference to Canons 1 and 3A(6) of the Code of Conduct, and in refraining from comment on matters that might appear before (or return to) the court, I respectfully decline to assess the correctness of this binding decision of the Supreme Court.

g. Was *District of Columbia v. Heller* correctly decided?

Response: With deference to Canons 1 and 3A(6) of the Code of Conduct, and in refraining from comment on matters that might appear before (or return to) the court, I respectfully decline to assess the correctness of this binding decision of the Supreme Court.

h. Was *McDonald v. City of Chicago* correctly decided?

Response: With deference to Canons 1 and 3A(6) of the Code of Conduct, and in refraining from comment on matters that might appear before (or return to) the

court, I respectfully decline to assess the correctness of this binding decision of the Supreme Court.

i. Was *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC* correctly decided?

Response: With deference to Canons 1 and 3A(6) of the Code of Conduct, and in refraining from comment on matters that might appear before (or return to) the court, I respectfully decline to assess the correctness of this binding decision of the Supreme Court.

j. Was *Sturgeon v. Frost* correctly decided?

Response: With deference to Canons 1 and 3A(6) of the Code of Conduct, and in refraining from comment on matters that might appear before (or return to) the court, I respectfully decline to assess the correctness of this binding decision of the Supreme Court.

k. Was *Juliana v. United States* (9th Cir.) correctly decided?

Response: With deference to Canons 1 and 3A(6) of the Code of Conduct, and in refraining from comment on matters that might appear before (or return to) the court, I respectfully decline to assess the correctness of this decision.

l. Was *Rust v. Sullivan* correctly decided?

Response: With deference to Canons 1 and 3A(6) of the Code of Conduct, and in refraining from comment on matters that might appear before (or return to) the court, I respectfully decline to assess the correctness of this binding decision of the Supreme Court.

25. Is threatening Supreme Court Justices right or wrong?

Response: Threatening anybody is improper, but our judiciary must function without distraction from threats or other outside potential influences.

26. Do you think the Supreme Court should be expanded?

Response: Questions about the appropriate size of the Supreme Court is a policy decision that should be made by the other branches of government.

27. How do you distinguish between "attacks" on a sitting judge and mere criticism of an opinion he or she has issued?

Response: This would be a fact-specific determination based on the specific communication that was alleged to have been an "attack," and the context surrounding it.

28. Does racism qualify as a public health emergency?

Response: As a judge, I rule on matters brought before the court. This question is better answered by the branches of government outside of the judiciary. If I am confirmed as a district judge, I will focus on my limited Article III role.

29. Is climate change real?

Response: As a judge, I rule on matters brought before the court. Findings of scientific fact are based upon reliable evidence such as expert testimony or supporting documents.

30. Is the federal judicial system systemically racist? Please explain.

Response: As a state court judge of seven years, I have never had to adjudicate whether someone or some institution was racist, though I have had to assess whether conduct violated the law, such as whether it amounted to intimidation based upon bigotry or bias. I make sure to treat everyone in the courtroom fairly, with dignity and respect, and would do the same if confirmed as a district judge.

a. If you answered yes, if confirmed how will you feel comfortable working in a systemically racist system?

Response: As a state court judge of seven years, I have never had to adjudicate whether someone or some institution was racist, though I have had to assess whether conduct violated the law, such as whether it amounted to intimidation based upon bigotry or bias. I make sure to treat everyone in the courtroom fairly, with dignity and respect, and would do the same if confirmed as a district judge.

31. What is more important during the COVID-19 pandemic: ensuring the safety of the community by keeping violent, gun re-offenders incarcerated or releasing violent, gun-offenders to the community?

Response: It is most important for the judiciary not to involve itself with policy decisions, but to assess the merits of each case before the court.

32. If the Justice Department determines that a prosecution of an individual is meritless and dismisses the case, is it appropriate for a District Judge to question the Department's motivations and appoint an amicus to continue the prosecution? Please explain why or why not.

Response: In my service as a judge I am respectful of the prosecutor's discretion in determining which cases to pursue, especially in that they are the one who is deeply involved in the preparation of the case, the assessment of the evidence to be introduced, and the availability and credibility (or lack thereof) of material witnesses, among other things.

33. Over the course of your career, how many times have you spoken at events sponsored or hosted by the following liberal, "dark money" groups?

Response: I have not to my knowledge spoken at any events sponsored or hosted by any of these groups.

a. American Constitution Society

Response: None.

b. Arabella Advisors

Response: None.

c. Demand Justice

Response: None.

d. Fix the Court

Response: None.

e. Open Society Foundation

Response: None.

34. What is the legal basis for a nationwide injunction? What considerations would you consider as a district judge when deciding whether to grant one?

Response: As a state court judge of seven years and as a public defender for eleven years before that, I have never had to consider the imposition of a nationwide injunction. In assessing any such relief, I would carefully consider the arguments and authority presented by the parties, together with the apparently relevant considerations set forth in 5 U.S.C. § 706, remaining hesitant to issue an order that extends beyond the impact to the parties.

35. What legal standard would you apply in evaluating whether or not a regulation or proposed legislation infringes on Second Amendment rights?

Response: *District of Columbia v. Heller*, 554 U.S. 570 (2008) is binding authority on this topic, but the Supreme Court did not specify which level of scrutiny was applied. *Heller*, 554 U.S. at 634. *See Kachalsky v. County of Westchester*, 701 F.3d 81, 93 (2d Cir. 2012); *U.S. v. Decastro*, 682 F.3d 160, 165 (2d Cir. 2012). Accordingly, the United States Court of Appeals for the Second Circuit has developed a two-step inquiry to determine the appropriate legal standard to apply in assessing the constitutionality of regulations that implicate the Second Amendment. *New York State Rifle & Pistol Ass'n, Inc. v. Cuomo*, 804 F.3d 242, 254 (2d Cir. 2015). Judges must consider: "(1) how close the law comes to the core of the Second Amendment right and (2) the severity of the law's burden on the right" in determining whether to apply intermediate or strict scrutiny. *Id.* at 258 (internal citations and quotations omitted).

36. In your view, is a personal philosophical or religious objection to the death penalty on the part of President Biden a valid justification to abandon the defense of Dylann Roof's death sentence on direct appeal?

Response: I do not let my personal views interfere with my work as a judge in carefully considering cases brought before me.

37. Will you commit, if confirmed, to both seek and follow the advice of the Department's career ethics officials on recusal decisions?

Response: If confirmed, I will follow Canon 3.C. in its guidance regarding disqualification of judges, and any other source necessary to ensure that I am upholding the independence and impartiality of the judiciary (and preventing even the appearance of impropriety).

38. In your career as a prosecutor, did you ever encounter a defendant who sought to withdraw his guilty plea? Please provide an approximation of the number.

Response: I have never served as a prosecutor but both as a judge and as a public defender I believe I have encountered a small number of defendants out of the thousands of cases with which I have been involved when the accused wished to withdraw a guilty plea. I would estimate that there have been fewer than five such instances (when it was not an express part of a plea agreement, as occasionally was customary while I was a public defender in New Haven).

a. In your career, did you ever personally encounter a situation where the judge refused to accept a motion to dismiss with prejudice, filed by the government? If yes, please explain the circumstances and provide the citation.

Response: I cannot recall a judge ever refusing to dismiss a case upon prosecutorial motion, and to the best of my recollection, I have never done so.

39. Under the Religious Freedom Restoration Act the federal government cannot "substantially burden a person's exercise of religion."

a. Who decides whether a burden exists on the exercise of religion, the government or the religious adherent?

Response: Neither; the court, in assessing a case before it, determines whether a law substantially burdens the free exercise of religion. *Burwell v. Hobby Lobby*, 573 U.S. 682 (2014). However, federal courts "have no business addressing" whether a religious belief is reasonable. *Id.* at 724.

b. How is a burden deemed to be "substantial[]" under current caselaw? Do you agree with this?

Response: In assessing whether a legislative mandate that a corporation provide health insurance coverage for contraceptives amounted to a substantial burden on the free exercise of religion, the Supreme Court in *Hobby Lobby* noted that the plaintiffs had "a sincere religious belief that life begins at conception," and determined that requiring them to provide health insurance that covered birth control methods resulting in the destruction of an embryo would amount to forcing them to engage in conduct that "seriously violates their religious beliefs." *Burwell v. Hobby Lobby*, 573 U.S. 682, 720 (2014). Citing the financial penalties that could be imposed upon the plaintiffs for noncompliance, the Supreme Court determined that such "severe" economic consequences would be "surely substantial." *Id*. It went on to reference the competitive disadvantages that likely would accompany a decision to discontinue providing health insurance to employees; *id.* at 722; and to explain that the law's mandate required the plaintiffs to do something they believed to be immoral and in violation of their genuinely-held religious beliefs, thereby implicating "a difficult and important question of religion and moral philosophy." *Id.* at 724. Ultimately, the "enormous sum of money" that the plaintiffs could have to pay for their noncompliance was found to be a substantial burden on their religious beliefs. *Id.* at 726. With respect to whether I agree with this method of analysis, I never let my personal preferences or beliefs interfere with my obligation to follow the law and all binding authority.

40. Do you agree with the Supreme Court that the free exercise clause lies at the heart of a pluralistic society (*Bostock v. Clayton County*)? If so, does that mean that the Free Exercise Clause requires that religious organizations be free to act consistently with their beliefs in the public square?

Response: As with in all other matters before the court, I do not inject my personal beliefs (if I have any on an issue) into my work as a judge; I follow relevant precedent, whether or not I tend to agree with its reasoning. I agree that the First Amendment is foundational, and I commit to applying all Supreme Court precedent including precedent regarding the free exercise of religion.

41. Do Blaine Amendments violate the Constitution?

Response: Yes, as discussed in *Espinoza v. Montana Department of Revenue*, 140 S. Ct. 2246 (2020).

42. Do you believe potential voter fraud or other elections abnormalities are concerns that the Justice Department should take seriously?

Response: If I am fortunate enough to be confirmed, I will faithfully apply the law to the facts and circumstances of each case that is brought before me, but it will not be for me to seek out certain cases.

43. Please describe the selection process that led to your nomination to be a United States District Judge, from beginning to end (including the circumstances that led to your nomination and the interviews in which you participated).

Response: On March 9, 2021, I submitted to United States Senators Richard Blumenthal and Christopher Murphy my application for nomination. On March 10, 2021, I was notified by Senator Blumenthal's staff that my materials would be forwarded to the Advisory Committee. On April 6, 2021, I interviewed with Senator Blumenthal and Senator Murphy. On April 16, 2021, I was notified by staff for Senator Blumenthal that my name was being submitted to the White House. On April 18, 2021, I was contacted by the White House Counsel's Office, and interviewed with attorneys from that office on April 19, 2021. Since April 21, 2021, I have been in contact with officials from the Office of Legal Policy at the Department of Justice. On June 15, 2021, my nomination was submitted to the Senate.

44. During your selection process did you talk with any officials from or anyone directly associated with the organization Demand Justice? If so, what was the nature of those discussions?

Response: No.

a. Did anyone do so on your behalf?

Response: No.

45. During your selection process did you talk with any officials from or anyone directly associated with the American Constitution Society? If so, what was the nature of those discussions?

No.

a. Did anyone do so on your behalf?

Response: No.

46. During your selection process, did you talk with any officials from or anyone directly associated with Arabella Advisors? If so, what was the nature of those discussions? Please include in this answer anyone associated with Arabella's known subsidiaries the Sixteen Thirty Fund, the New Venture Fund, or any other such Arabella dark-money fund that is still shrouded.

Response: No.

a. Did anyone do so on your behalf?

Response: No.

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

Response: No.

a. Did anyone do so on your behalf?

Response: No.

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

Response: On April 18, 2021, I was contacted by the White House Counsel's Office, and interviewed with attorneys from that office on April 19, 2021. Since April 21, 2021, I

have been in contact with officials from the Office of Legal Policy at the Department of Justice.

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

Response: I thought carefully about these questions before answering them and performed research where necessary (to accurately report on the state of the law). I also reviewed some of the questions posed to prior nominees, and, in some instances, their responses. However, each response to these questions has been my own. Before final submission, I provided a draft of my answers to the Office of Legal Policy and made revisions before final submission to the Senate.

SENATOR TED CRUZ
U.S. Senate Committee on the Judiciary

Questions for the Record for Omar Antonio Williams, nominee to the UnitedStates District Court for the District of Connecticut

I. Directions

Please provide a wholly contained answer to each question. A question's answer should not cross-reference answers provided in other questions. Because a previous nominee declined to provide any response to discrete subparts of previous questions, they are listed here separately, even when one continues or expands upon the topic in the immediately previous question or relies on facts or context previouslyprovided.

If a question asks for a yes or no answer, please provide a yes or no answer first and then provide subsequent explanation. If the answer to a yes or no question is sometimes yes and sometimes no, please state such first and then describe the circumstances giving rise to each answer.

If a question asks for a choice between two options, please begin by stating which option applies, or both, or neither, followed by any subsequent explanation.

If you disagree with the premise of a question, please answer the question as-written and then articulate both the premise about which you disagree and the basis for that disagreement.

If you lack a basis for knowing the answer to a question, please first describe what efforts you have taken to ascertain an answer to the question and then provide your tentative answer as a consequence of its reasonable investigation. If even a tentative answer is impossible at this time, please state why such an answer is impossible andwhat efforts you, if confirmed, or the administration or the Department, intend to take to provide an answer in the future. Please further give an estimate as to when the Committee will receive that answer.

To the extent that an answer depends on an ambiguity in the question asked, pleasestate the ambiguity you perceive in the question, and provide multiple answers which articulate each possible reasonable interpretation of the question in light of the ambiguity.

II. Questions

1. You argued in a 2002 article in the Connecticut Public Interest Law Journal that change in venue motions in police misconduct cases are unconstitutional. Please explain this argument, and state whether you agree with it today.

Response: In the article I wrote some twenty years ago (in law school), I noted that criminal trials should take place in the district in which the criminal conduct allegedly occurred, unless either party shows that a fair and impartial trial cannot be had in that location. *When Change of Venue Means Change in Verdict: A Critical Analysis of Venue, and its Impact upon the* Diallo *Trial*, 2 CONN. PUB. INT. L.J. 65, 68—69 (2002) (citing applicable law). While the writing went on to consider broad policy concerns in such cases, I now apply the existing rule of law in my role as a judge, leaving policy makers to consider the impact of those laws. In my seven years as a state court judge, I have ruled with fairness and with legal accuracy in assessing venue, and in presiding over cases alleging both on-duty and private-capacity claims of police misconduct. I have deep respect for the rule of law and for the impartiality of the judiciary as required by Canon 2 of the Code of Conduct for United States Judges.

2. You were the co-chair of the Jury Selection Task Force for the State of Connecticut Judicial Branch. The task force, from what I understand, was attempting to eliminate racial bias in the jury selection process.

a. Do you think the Connecticut Judicial Branch is infected with systemic racism?

Response: In my current role as an individual state court judge, I do not diagnose whether the Judicial Branch is systemically racist, though I do my best in every case before me to apply the law with fairness and with accuracy, and without undue influence of any kind.

b. Please explain the *Batson* challenge procedure?

Response: *Batson* prevents the exclusion of a potential juror from service due to purposeful racial discrimination. *Batson v. Kentucky*, 476 U.S. 79 (1986). The test presumes the potential for discrimination and requires proof of membership in a "cognizable racial group;" *Batson*, 476 U.S. at 96; but it is the movant's (defendant's) burden to show that the prosecutor purposefully used racial discrimination to preclude certain potential jurors through the use of peremptory challenges. Once the defendant establishes a prima facie case under *Batson* (by highlighting factors such as a pattern of excluding black jurors, or the type of questions posed to certain potential jurors), the burden shifts to the prosecution to provide a race-neutral reason for the peremptory challenge in attempting to overcome the claim of purposeful discrimination. *Batson*, 476 U.S. at 97-98. Finally, if the state can provide a race-neutral reason to strike the potential juror, the burden shifts back to the defendant to convince the court that the race-neutral reason provided by the state was not genuine (and thus that striking the potential juror was racially discriminatory).

c. How many *Batson* claims were successfully litigated in the past year in Connecticut state courts? Does the number indicate a the prevalence of racial bias in the jury selection process?

Response: Internet searches have not been fruitful in definitively determining the number of *Batson* claims successfully litigated in the past year in Connecticut state courts (making it difficult to use such statistics to assess racial bias as requested in the second half of this question). However, the Supreme Court of Connecticut in *State v. Holmes*, 334 Conn. 202, 204 (2019), noted that *Batson* "has been roundly criticized as ineffectual in addressing the discriminatory use of peremptory challenges during jury selection." As a result, the Supreme Court of Connecticut created a Jury Selection Task Force to, among other things, collect data intended for analysis and action in eradicating racial bias from our jury trials and from our jury selection process. I was asked to serve on this task force and did so. I would note that prior Connecticut appellate cases such as *State v. Moore*, 169 Conn. App. 470 (2016) previously highlighted the absence of certain data collection.

d. Do you think the federal judiciary is infected with systemic racism?

Response: I have never as a judge had to determine whether a person or an institution is racist (though I have had to assess whether certain conduct violated certain laws intended to protect against such things as intimidation based upon bigotry or bias). Instead, I am sure to treat everyone before me with fairness, dignity, and respect, and to accurately apply the law.

3. Is the ability to own a firearm a personal civil right?

Response: In *District of Columbia v. Heller*, 554 U.S. 570, 595 (2008), the Supreme Court of the United States held that the Second Amendment protects "an individual right to keep and bear arms."

4. Does the right to own a firearm receive less protection than the other individual rights specifically enumerated in the Constitution?

Response: To the best of my knowledge, I am unaware of any Supreme Court precedent indicating that the right to own a firearm receives less protection than the other individual rights specifically enumerated in the Constitution.

Questions for the Record for Omar Antonio Williams
From Senator Mazie K. Hirono

1. **As part of my responsibility as a member of the Senate Judiciary Committee and to ensure the fitness of nominees, I am asking nominees to answer the following two 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.

Senator Mike Lee
Questions for the Record
Omar Williams, D. Conn.

1. How would you describe your judicial philosophy?

Response: In my seven years as a state court judge, I believe I have followed the law as it is written and the legal precedent of binding authority. I have dedicated myself to allowing parties to be heard, treating people fairly with dignity and respect, entering rulings that are firmly rooted in the law, and in articulating those rulings so people understand their derivation. If confirmed as a federal district judge, I would respect those same principles and values.

2. What sources would you consult when deciding a case that turned on the interpretation of a federal statute?

Response: If the statute is clear, I would go no further than its unambiguous text. When specific terms are not legislatively defined, I apply their plain meaning. Where there is ambiguity, I look to the context of the legislation and, where applicable, to the interpretation of the statute by courts of review. A law that instructs an administrative agency to carry out its mission but that has ambiguous portions of text requires deference to any reasonable interpretation by the agency charged with enforcing it. And finally, as a last resort, I would look to the legislative history to attempt to clear up any remaining confusion. Overall, it is the carefully crafted text of the statute itself that should be given full weight in statutory construction.

3. What sources would you consult when deciding a case that turned on the interpretation of a constitutional provision?

Response: I would refer to the constitutional text itself, and would defer to any relevant precedent from the Supreme Court of the United States in its role as the ultimate arbiter of the Constitution. *See Marbury v. Madison*, 5 U.S. 137 (1803).

4. What role do the text and original meaning of a constitutional provision play when interpreting the Constitution?

Response: Constitutional interpretation requires strict adherence to the text of the document, and to any binding precedent from the Supreme Court of the United States.

5. How would you describe your approach to reading statutes? Specifically, how much weight do you give to the plain meaning of the text?

Response: Full and complete weight is assigned to the plain meaning of clear legislative text.

a. Does the "plain meaning" of a statute or constitutional provision refer to the public understanding of the relevant language at the time of enactment, or does the meaning change as social norms and linguistic

conventions evolve?

Response: Adherence to the words of a law as they are written also is shaped by the Supreme Court's interpretation of any given constitutional provision over time.

6. What are the constitutional requirements for standing?

Response: To the best of my belief, constitutional standing basically requires a plaintiff to show infringement upon a legal interest, causation, and the existence of an adequate potential remedy. *American Psychiatric Ass'n v. Anthem Health Plans, Inc.*, 821 F.3d 352 (2d Cir. 2016).

7. Do you believe Congress has implied powers beyond those enumerated in the Constitution? If so, what are those implied powers?

Response: "The government . . . of the United States, can claim no powers which are not granted to it by the constitution, and the powers actually granted, must be such as are expressly given, or given by necessary implication." *Martin v. Hunter's Lessee*, 14 U.S. 304, 326 (1816). But Article I, § 8, cl. 18 (the "necessary and proper" clause) permits Congress to make laws that allow it to carry out its explicit powers. "The Constitution has never been regarded as denying to the Congress the necessary resources of flexibility and practicality, which will enable it to perform its function in laying down policies and establishing standards, while leaving to selected instrumentalities the making of subordinate rules within prescribed limits and the determination of facts to which the policy as declared by the Legislature is to apply." *Currin v. Wallace*, 306 U.S. 1 (1939). "Without capacity to give authorizations of that sort we should have the anomaly of a legislative power which in many circumstances calling for its exertion would be but a futility." *Panama Refining Co. v. Ryan*, 293 U.S. 388 (1935). The seminal Supreme Court case often cited on this topic is *McCulloch v. Maryland*, which held, "If the end be legitimate, and within the scope of the constitution, all the means which are appropriate, which are plainly adapted that end, and which are not prohibited, may constitutionally be employed to carry it into effect." *McCulloch v. Maryland*, 17 U.S. 316 (1819).

8. Where Congress enacts a law without reference to a specific Constitutional enumerated power, how would you evaluate the constitutionality of that law?

Response: My method of analyzing the claim would depend upon the nature of that claim as raised and argued by the parties, with specific reference to congressional power conferred by the Constitution, and as interpreted by the Supreme Court.

9. Does the Constitution protect rights that are not expressly enumerated in the Constitution? Which rights?

Response: Yes; the Supreme Court of the United States summarized, "In a long line of cases, we have held that, in addition to the specific freedoms protected by the Bill of Rights, the liberty specially protected by the Due Process Clause includes the rights to marry, to have children, to direct the education and upbringing of one's children, to

marital privacy, to use contraception, to bodily integrity, and to abortion. We have also assumed, and strongly suggested, that the Due Process Clause protects the traditional right to refuse unwanted lifesaving medical treatment. But we have always been reluctant to expand the concept of substantive due process because guideposts for responsible decisionmaking in this unchartered area are scarce and open-ended." *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997) (citations and internal quotations omitted).

10. What rights are protected under substantive due process?

Response: The Supreme Court of the United States has explained that substantive due process "specially protects those fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition;" *Washington v. Glucksberg*, 521 U.S. 702, 720—21 (citations and internal quotations omitted); such as those cited in my response to Question 9.

11. If you believe substantive due process protects some personal rights such as a right to abortion, but not economic rights such as those at stake in *Lochner v. New York*, on what basis do you distinguish these types of rights for constitutional purposes?

Response: As a judge, I do not inject my personal beliefs into my assessment of Supreme Court precedent, but I uphold the law as written.

12. What are the limits on Congress's power under the Commerce Clause?

Response: Under the Commerce Clause, Congress has the power to regulate the use of the channels of interstate commerce, the instrumentalities of interstate commerce, or persons or things in interstate commerce, and activities substantially related to (or that substantially affect) interstate commerce. *See U.S. v. Morrison,* 529 U.S. 598, 608-09 (2000); *U.S. v. Lopez*, 514 U.S. 549, 558-59 (1995).

13. What qualifies a particular group as a "suspect class," such that laws affecting that group must survive strict scrutiny?

Response: Strict scrutiny is triggered when a law treats people less favorably based on their race, religion, national origin, or alienage. *See Graham v. Richardson*, 403 U.S. 365, 371-72 (1971). Religion also is regarded as a suspect class. *Burlington Northern R. Co. v. Ford*, 504 U.S. 648, 651 (1992).

14. How would you describe the role that checks and balances and separation of powers play in the Constitution's structure?

Response: Each of the three branches of government was granted limited power by the Constitution. Article I conferred upon the legislature the power to draft laws, Article II gave the executive branch the power to carry out the laws passed by the legislature, and Article III established the judicial branch which assesses legal cases brought before it and also has the power to rule on the constitutionality of laws. This division

of limited authority serves to ensure fair rule by the people without the abuse of power.

15. How would you go about deciding a case in which one branch assumed an authority not granted it by the text of the Constitution?

Response: When a branch of government exceeds its authority and a claim is properly brought before the court, it is the court's obligation to strike down such unauthorized action. Analysis would involve review of the language in the Constitution as well as binding authority in the interpretation of the Constitution.

16. What role should empathy play in a judge's consideration of a case?

Response: None, other than perhaps in how a judge articulates their ruling. But the ruling itself must focus on the rule of law (as it is written, and as it applies to the facts and circumstances of the case before the court).

17. What's worse: Invalidating a law that is, in fact, constitutional, or upholding a law that is, in fact, unconstitutional?

Response: It is the duty of a judge to uphold the constitution and to adhere to the separation of powers, so the court should exercise equally due care to uphold constitutional laws and to invalidate laws that are unconstitutional.

18. From 1789 to 1857, the Supreme Court exercised its power of judicial review to strike down federal statutes as unconstitutional only twice. Since then, the invalidation of federal statutes by the Supreme Court has become significantly more common. What do you believe accounts for this change? What are the downsides to the aggressive exercise of judicial review? What are the downsides to judicial passivity?

Response: The very first canon of the Code of Conduct for United States Judges mandates that judges uphold the integrity and independence of the judiciary. As such, I do not find it appropriate for me to stand in judgment of Supreme Court in its actions or in its omissions. Instead, it is my obligation as a state court judge and as a nominee to the federal bench to strictly adhere to binding precedent, which in turn bolsters public confidence in our judiciary and in our form of government.

19. How would you explain the difference between judicial review and judicial supremacy?

Response: I believe that judicial review refers to the court's power to assess the constitutionality of a law, and that judicial supremacy refers to the concept that a court's interpretation of constitutional language takes precedent over conflicting interpretations from either of the other two branches of government, perhaps because the legislature remains capable of further amending the Constitution.

20. Abraham Lincoln explained his refusal to honor the Dred Scott decision by

asserting that "If the policy of the Government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court . . . the people will have ceased to be their own rulers, having to that extent practically resigned their Government into the hands of that eminent tribunal." How do you think elected officials should balance their independentobligation to follow the Constitution with the need to respect duly rendered judicial decisions?

Response: While judges must assess cases brought before them, our courts should respect the balance of powers and should refrain from otherwise opining on how the legislative and executive branches of government should carry out their duties.

21. **In Federalist 78, Hamilton says that the courts are the least dangerous branch because they have neither force nor will, but only judgment. Explain why that's important to keep in mind when judging.**

Response: Upholding the integrity and the independence of the judiciary is the very first canon in the Code of Conduct, and it is accomplished through the neutral and detached work of ruling with fairness on matters brought before the court. Judges and courts cannot make laws. They can only address cases or controversies that are properly brought before them.

22. **As a district court judge, you would be bound by both Supreme Court precedent and prior circuit court precedent. What is the duty of a lower court judge when confronted with a case where the precedent in question does not seem to be rooted in constitutional text, history, or tradition and also does not appear to speak directly to the issue at hand? In applying a precedent that has questionable constitutional underpinnings, should a lower court judge extendthe precedent to cover new cases, or limit its application where appropriate and reasonably possible?**

Response: As a state court judge for seven years, I have done my best to apply precedent of the Connecticut appellate courts and of the Supreme Court of the United States. If confirmed as a federal district judge, I would be bound to apply precedent from the Supreme Court and from the Second Circuit Court of Appeals, so it would be beyond my authority to stand in judgment of such an appellate court. I would follow the law as it is written, and I would follow all binding authority.

23. **When sentencing an individual defendant in a criminal case, what role, if any, should the defendant's group identity(ies) (e.g., race, gender, nationality, sexual orientation or gender identity) play in the judges' sentencing analysis?**

Response: None.

24. **The Biden Administration has defined "equity" as: "the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American**

persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality." Do you agree with that definition? If not, how would you define equity?

Response: I have seen President Biden's definition of "equity" as it relates to his Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (January 20, 2021). I do not have an opinion on President Biden's definition of equity.

25. Is there a difference between "equity" and "equality?" If so, what is it?

Response: Black's Law Dictionary's Free Online Legal Dictionary (2nd Ed.) (last visited Aug. 9, 2021) defines "equity" in part as "the spirit and the habit of fairness, justness, and right dealing," whereas it defines "equality" as "possessing the same rights, privileges, and immunities, and being liable to the same duties." It goes on to say, "Equality is equity."

26. Does the 14th Amendment's equal protection clause guarantee "equity" as defined by the Biden Administration (listed above in question 24)?

Response: The Fourteenth Amendment does not use or define the term "equity."

27. How do you define "systemic racism?"

Response: In my role as a judge, I do not define terms such as "systemic racism," and instead apply legislative language as it is defined by the legislature.

28. How do you define "critical race theory?"

Response: In my role as a judge, I do not define terms such as "critical race theory," and instead apply definitions of terminology as provided within legislation that the court is asked to interpret or to apply.

29. Do you distinguish "critical race theory" from "systemic racism," and if so, how?

Response: In my role as a state court judge, I have not had to define or to distinguish the terms "critical race theory" or "systemic racism." I strive to treat all litigants and all those with whom I interact with fairness, dignity, and respect, and I faithfully apply definitions provided in legislation and in executive orders.

30. In 2002, you argued that change of venue motions should not be permitted in criminal cases involving police misconduct, in part because they may be unconstitutional. Please explain how changing the venue of a trial involving the defendant's (in some cases, highly publicized) misconduct to a more neutral

location results in a *less* fair trial, rather than a *more* fair trial.

Response: This question refers to a piece that I wrote almost twenty years ago as a law school student before I ever had served as a practicing attorney or as a state court judge. In my seven years as a state court judge, I have ruled with fairness on matters of venue, without regard to any views I previously expressed as a law student.

31. In 2020, you were the co-chair of the Jury Selection Task Force for the State of Connecticut Judicial Branch, which aimed to gather more data on jurors' race for use in the venire process. Please explain how seeking *more* information regarding potential jurors' race contributes to *less* racism in jury selection.

Response: In *State v. Holmes*, 334 Conn. 202 (2019), the Supreme Court of Connecticut created the Jury Selection Task Force to ensure that juries are comprised of a fair cross section of the community, and that they are not limited in diversity. The collection of juror demographics was part of the specific charge given to the Data, Statutes & Rules Subcommittee of the Task Force. Through research cited in the final report of the Task Force, this subcommittee found that diverse juries produce verdicts with fewer racial disparities – for example in sentencing – and so it recommended data collection efforts to produce diverse juries. The data is intended to ensure that a diverse pool of jurors is summoned, to prevent the systematic exclusion of jurors based on classifications such as race, and to determine factors (such as financial hardship) that prevent certain jurors from serving. For privacy, the subcommittee recommended protecting personally-identifiable juror information.

Senator Ben Sasse
Questions for the Record
U.S. Senate Committee on the Judiciary
Hearing: "Nominations"
July 28, 2021

For all nominees:

1. **Since becoming a legal adult, have you participated in any events at which you or other participants called into question the legitimacy of the United States Constitution?**

   Response: No.

2. **Since becoming a legal adult, have you participated in any rallies, demonstrations, or other events at which you or other participants have willfully damaged public or private property?**

   Response: No.

For all judicial nominees:

1. **How would you describe your judicial philosophy?**

   Response: In my seven years as a state court judge, I believe I have followed the law as it is written and the legal precedent of binding authority. I have dedicated myself to allowing parties to be heard, treating people fairly with dignity and respect, entering rulings that are firmly rooted in the law, and in articulating those rulings so people understand their derivation. If confirmed as a federal district judge, I would respect those same principles and values.

2. **Would you describe yourself as an originalist?**

   Response: For the reasons stated in my response to Question 1, no, I would not describe myself as belonging to any philosophical school of thought. I have adhered to the judicial philosophy I described above.

3. **Would you describe yourself as a textualist?**

   Response: For the reasons stated in my response to Question 1, no, I would not describe myself as belonging to any philosophical school of thought. I have adhered to the judicial philosophy I described above.

4. **Do you believe the Constitution is a "living" document? Why or why not?**

Response: The words of the Constitution remain unchanged, but the document can be considered "living" insofar as it can be amended by the legislature and in that the Supreme Court (not the District Court) over time can modify and refine its interpretation of certain constitutional provisions.

5. **Please name the Supreme Court Justice or Justices appointed since January 20, 1953 whose jurisprudence you admire the most and explain why.**

Response: I have great admiration for many leaders in the law, but most of all, I look up to local heroes like Justice Lubbie Harper, Jr. and Chief Justice Chase Rogers, both formerly of the Supreme Court of Connecticut. They lead by example with legal acumen, but also in their commitment to the development of others. Each of them recognizes their potential impact to change lives through their mentorship of those who share a love for the rule of law and for an unrelenting work ethic that drives them to arrive at fair results. They have pushed me to exceed my goals, to consider how I can give back to others, and to remain focused on being a good person and in my family and personal life at all times.

6. **Was Marbury v. Madison correctly decided?**

Response: Yes. Deference to precedent falls within the primary canon of the Code of Conduct for United States Judges, and Canon 3A(6) requires judges to refrain from public comment about cases presently before the court and those that reasonably might appear before the court in the future. There are very few cases that are so central to our core American legal identity and that are unlikely to be the subject of litigation again in my lifetime that allow for a judge's response. *Marbury v. Madison* and its recognition of the court's power of judicial review, along with its concession as to the limits of judicial authority, exists at the heart of our government's separation of powers.

7. **Was Lochner v. New York correctly decided?**

Response: With deference to Canons 1 and 3A(6) of the Code of Conduct for United States Judges, and in refraining from comment on matters that might appear before (or return to) the court, I respectfully decline to assess the correctness of this Supreme Court decision.

8. **Was Brown v. Board of Education correctly decided?**

Response: Yes; like *Marbury v. Madison*, *Brown v. Board of Education* is so central to our legal identity as a nation, and so unlikely for its subject matter to return to court for litigation within my lifetime, that I can say with confidence that it was correctly decided.

9. **Was Bolling v. Sharpe correctly decided?**

Response: Yes; like *Marbury v. Madison* and *Brown v. Board of Education*, *Bolling v. Sharpe* is so central to our legal identity as a nation, and so unlikely for its subject matter

to return to court for litigation within my lifetime, that I can say with confidence that it was correctly decided.

10. Was Cooper v. Aaron correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

11. Was Mapp v. Ohio correctly decided?

Response: Referring again to the Code of Conduct for United States Judges for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

12. Was Gideon v. Wainwright correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

13. Was Griswold v. Connecticut correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

14. Was South Carolina v. Katzenbach correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

15. Was Miranda v. Arizona correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

16. Was Katzenbach v. Morgan correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

17. Was Loving v. Virginia correctly decided?

Response: Yes; like *Marbury v. Madison*, *Brown v. Board of Education, and Bolling v. Sharpe*, *Loving v. Virginia* also is so central to our legal identity as a nation, and so unlikely for its subject matter to return to court for litigation within my lifetime, that I can say with confidence that it was correctly decided.

18. Was Katz v. United States correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

19. Was Roe v. Wade correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

20. Was Romer v. Evans correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

21. Was United States v. Virginia correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

22. Was Bush v. Gore correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

23. Was District of Columbia v. Heller correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

24. Was Crawford v. Marion County Election Bord correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

25. Was Boumediene v. Bush correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

26. Was Citizens United v. Federal Election Commission correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

27. Was Shelby County v. Holder correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

28. Was United States v. Windsor correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

29. Was Obergefell v. Hodges correctly decided?

Response: Referring again to the Code of Conduct for United States Judges, and acknowledging that all Supreme Court precedent is binding authority, I decline to assess the propriety of this decision.

30. In the absence of controlling Supreme Court precedent, what substantive factors determine whether it is appropriate for appellate court to reaffirm its own precedent that conflicts with the original public meaning of the Constitution?

Response: If confirmed as a district court judge, precedent from the Second Circuit Court of Appeals would be binding on me, so it would be beyond my authority to stand in judgment of such an appellate court. The appellate court's rulings in turn are subject to review by the Supreme Court of the United States (the ultimate arbiter of the Constitution). If I am fortunate enough to be confirmed, I will follow the law as it is written, and I will follow all binding authority.

31. In the absence of controlling Supreme Court precedent, what substantive factors determine whether it is appropriate for an appellate court to reaffirm its own precedent that conflicts with the original public meaning of the text of a statute?

Response: As with my response to Question 30, if I am fortunate enough to be confirmed, I will follow all relevant law and all binding precedent from courts of review.

32. If defendants of a particular minority group receive on average longer sentences for a particular crime than do defendants of other racial or ethnic groups, should that disparity factor into the sentencing of an individual defendant? If so, how so?

Response: Judges must adjudicate each case on its merits and impose sentences in accordance with 18 U.S.C. § 3553 (a). Insofar as parity is concerned, subdivision (6) of subsection (a) of § 3553 cites "the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct."

Questions from Senator Thom Tillis
for Omar Antonio Williams
Nominee to be United States District Judge for the District of Connecticut

1. **Do you believe that a judge's personal views are irrelevant when it comes to interpreting and applying the law?**

   Response: Yes.

2. **What is judicial activism? Do you consider judicial activism appropriate?**

   Response: I believe judicial activism refers to a judge ruling based upon what they believe the law should be, rather than ruling based on what the law clearly states. If fortunate enough to be confirmed as a U.S. District Judge, I would not find judicial activism to be appropriate, as I have not found it appropriate in my role as a state judge of seven years.

3. **Do you believe impartiality is an aspiration or an expectation for a judge?**

   Response: Impartiality (as mandated by Canon 3 in the Code of Conduct) should be every judge's goal and reality; it is our ethical obligation and it bolsters public confidence in the judiciary and in its rulings.

4. **Should a judge second-guess policy decisions by Congress or state legislative bodies to reach a desired outcome?**

   Response: No.

5. **Does faithfully interpreting the law sometimes result in an undesirable outcome? How, as a judge, do you reconcile that?**

   Response: Faithfully interpreting the law is the duty of the court. There are courts of review to correct errors in application, but it is not the role of a judge to determine whether a proper legal outcome is desirable. A judge's desires should be set aside in interpreting the law.

6. **Should a judge interject his or her own politics or policy preferences when interpreting and applying the law?**

   Response: No.

7. **What will you do if you are confirmed to ensure that Americans feel confident that their Second Amendment rights are protected?**

   Response: I will follow the law in ruling on all matters before the court. As it relates to Second Amendment cases, I will uphold the individual right to keep and to bear arms recognized by *District of Columbia v. Heller*, 554 U.S. 570 (2008) and as applied to the

states by the Fourteenth Amendment, as recognized in *McDonald v. City of Chicago*, 561 U.S. 742 (2010).

8. How would you evaluate a lawsuit challenging a Sheriff's policy of not processing handgun purchase permits? Should local officials be able to use a crisis, such as COVID-19 to limit someone's constitutional rights? In other words, does a pandemic limit someone's constitutional rights?

Response: Claims brought before the court are assessed within the context of that stated right or claim. For example, the Supreme Court of the United States assessed the Second Amendment's individual right to keep and to bear arms as it pertained to a ban on gun registration in *District of Columbia v. Heller*, 554 U.S. 570 (2008). Constitutional rights are upheld even in a pandemic, as made clear in *Tandon v. Newsom*, 141 S. Ct. 1294 (2021), though judges should be careful not to determine whether local officials "should" be able to take certain action; our courts must assess legal claims based on the law as it exists and not inject a judge's personal beliefs about what the law "should" be.

9. What process do you follow when considering qualified immunity cases, and under the law, when must the court grant qualified immunity to law enforcement personnel and departments?

Response: I have never had to preside over a qualified immunity case in my seven years as a state court judge, nor have I been a party to such a case in my previous eleven years as a state public defender. However, I believe the qualified immunity test basically holds that law enforcement must be granted qualified immunity when their conduct was not clearly established as unconstitutional at the time that it took place. *Pearson v. Callahan*, 555 U.S. 223 (2009).

10. Do you believe that qualified immunity jurisprudence provides sufficient protection for law enforcement officers who must make split-second decisions when protecting public safety?

Response: I set aside my personal beliefs in my role as a state court judge, and I am committed to continuing to do so if I am fortunate to be confirmed as a U.S. District Judge.

11. What do you believe should be the proper scope of qualified immunity protections for law enforcement?

Response: Policy decisions such as this are not the province of the judicial branch of government, so it is not appropriate for me to offer my opinion on this matter.

12. Throughout the past decade, the Supreme Court has repeatedly waded into the area of patent eligibility, producing a series of opinions in cases that have only muddled the standards for what is patent eligible. The current state of eligibility jurisprudence is in abysmal shambles. What are your thoughts on the Supreme Court's patent eligibility jurisprudence?

Response: In my almost two decades of legal experience including seven years as a state court judge in Connecticut, I have not had the opportunity to handle a patent case. However, I routinely have encountered new areas of law and have had to rapidly get up to speed on all relevant precedent, and I commit to doing so if confirmed as a federal district judge and if a patent case comes before me. With respect to this patent eligibility line of questioning, I would apply the tests set forth by the Supreme Court of the United States in *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 573 U.S. 208 (2014), and any other binding precedent.

13. How would you apply current patent eligibility jurisprudence to the following hypotheticals. Please avoid giving non-answers and actually analyze these hypotheticals.

a. *ABC Pharmaceutical Company* develops a method of optimizing dosages of a substance that has beneficial effects on preventing, treating or curing a disease or condition for individual patients, using conventional technology but a newly-discovered correlation between administered medicinal agents and bodily chemicals or metabolites. Should this invention be patent eligible?

Response: Canon 3A(6) of the Code of Conduct for United States Judges prohibits commenting on matters pending or impending in any court, so without commenting on the merits of this hypothetical, I will affirm that I will follow all applicable law in analyzing cases before me, as I presently do as a state court judge.

b. *FinServCo* develops a valuable proprietary trading strategy that demonstrably increases their profits derived from trading commodities. The strategy involves a new application of statistical methods, combined with predictions about how trading markets behave that are derived from insights into human psychology. Should *FinServCo's* business method standing alone be eligible? What about the business method as practically applied on a computer?

Response: Canon 3A(6) of the Code of Conduct for United States Judges prohibits commenting on matters pending or impending in any court, so without commenting on the merits of this hypothetical, I will affirm that I will follow all applicable law in analyzing cases before me, as I presently do as a state court judge.

c. *HumanGenetics* Company wants to patent a human gene or human gene fragment as it exists in the human body. Should that be patent eligible? What if *HumanGenetics* Company wants to patent a human gene or fragment that contains sequence alterations provided by an engineering process initiated by humans that do not otherwise exist in nature? What if the engineered alterations were only at the end of the human gene or fragment and merely removed one or more contiguous elements?

Response: Canon 3A(6) of the Code of Conduct for United States Judges prohibits commenting on matters pending or impending in any court, so without commenting on the merits of this hypothetical, I will affirm that I will follow all applicable law in analyzing cases before me, as I presently do as a state court judge.

d. *BetterThanTesla ElectricCo* develops a system for billing customers for charging electric cars. The system employs conventional charging technology and conventional computing technology, but there was no previous system combining computerized billing with electric car charging. Should *BetterThanTesla's* billing system for charging be patent eligible standing alone? What about when it explicitly claims charging hardware?

Response: Canon 3A(6) of the Code of Conduct for United States Judges prohibits commenting on matters pending or impending in any court, so without commenting on the merits of this hypothetical, I will affirm that I will follow all applicable law in analyzing cases before me, as I presently do in my role as a state court judge.

e. *Natural Laws and Substances, Inc.* specializes in isolating natural substances and providing them as products to consumers. Should the isolation of a naturally occurring substance other than a human gene be patent eligible? What about if the substance is purified or combined with other substances to produce an effect that none of the constituents provide alone or in lesser combinations?

Response: Canon 3A(6) of the Code of Conduct for United States Judges prohibits commenting on matters pending or impending in any court, so without commenting on the merits of this hypothetical, I will affirm that I will follow all applicable law in analyzing cases before me, as I presently do as a state court judge.

f. A business methods company, *FinancialServices Troll,* specializes in taking conventional legal transaction methods or systems and implementing them through a computer process or artificial intelligence. Should such implementations be patent eligible? What if the implemented method actually improves the expected result by, for example, making the methods faster, but doesn't improve the functioning of the computer itself? If the computer or artificial intelligence implemented system does actually improve the expected result, what if it doesn't have any other meaningful limitations?

Response: Canon 3A(6) of the Code of Conduct for United States Judges prohibits commenting on matters pending or impending in any court, so without commenting on the merits of this hypothetical, I will affirm that I will follow all applicable law in analyzing cases before me, as I presently do as a state court judge.

g. *BioTechCo* discovers a previously unknown relationship between a genetic mutation and a disease state. No suggestion of such a relationship existed in the prior art. Should *BioTechCo* be able to patent the gene sequence corresponding

to the mutation? What about the correlation between the mutation and the disease state standing alone? But, what if *BioTech Co* invents a new, novel, and nonobvious method of diagnosing the disease state by means of testing for the gene sequence and the method requires at least one step that involves the manipulation and transformation of physical subject matter using techniques and equipment? Should that be patent eligible?

Response: Canon 3A(6) of the Code of Conduct for United States Judges prohibits commenting on matters pending or impending in any court, so without commenting on the merits of this hypothetical, I will affirm that I will follow all applicable law in analyzing cases before me, as I presently do as a state court judge.

h. Assuming *BioTechCo's* diagnostic test is patent eligible, should there exist provisions in law that prohibit an assertion of infringement against patients receiving the diagnostic test? In other words, should there be a testing exemption for the patient health and benefit? If there is such an exemption, what are its limits?

Response: Canon 3A(6) of the Code of Conduct for United States Judges prohibits commenting on matters pending or impending in any court, so without commenting on the merits of this hypothetical, I will affirm that I will follow all applicable law in analyzing cases before me, as I presently do as a state court judge.

i. *Hantson Pharmaceuticals* develops a new chemical entity as a composition of matter that proves effective in treating TrulyTerribleDisease. Should this new chemical entity be patent eligible?

Response: Canon 3A(6) of the Code of Conduct for United States Judges prohibits commenting on matters pending or impending in any court, so without commenting on the merits of this hypothetical, I will affirm that I will follow all applicable law in analyzing cases before me, as I presently do as a state court judge.

j. *Stoll Laboratories* discovers that superconducting materials superconduct at much higher temperatures when in microgravity. The materials are standard superconducting materials that superconduct at lower temperatures at surface gravity. Should *Stoll Labs* be able to patent the natural law that superconductive materials in space have higher superconductive temperatures? What about the space applications of superconductivity that benefit from this effect?

Response: Canon 3A(6) of the Code of Conduct for United States Judges prohibits commenting on matters pending or impending in any court, so without commenting on the merits of this hypothetical, I will affirm that I will follow all applicable law in analyzing cases before me, as I presently do in my role as a state court judge.

14. Based on the previous hypotheticals, do you believe the current jurisprudence provides the clarity and consistency needed to incentivize innovation? How would you apply the Supreme Court's ineligibility tests—laws of nature, natural phenomena, and abstract ideas—to cases before you?

Response: In my almost two decades of legal experience including seven years as a state court judge in Connecticut, I have not had the opportunity to handle a patent case. However, I routinely have encountered new areas of law and have had to rapidly get up to speed on all relevant precedent, and I commit to doing so if confirmed as a federal district judge and if a patent case comes before me. With respect to this patent eligibility line of questioning, I would apply the tests set forth by the Supreme Court of the United States in *Alice Corp. Pty. Ltd. v. CLS Bank Int'l*, 573 U.S. 208 (2014), and any other binding precedent.