

Senator Chuck Grassley, Ranking Member
Questions for the Record
Ur Jaddou
Nominee to be Director of U.S. Citizenship and Immigration Services

1. During your confirmation hearing, I asked you about the proposal made by then-Senator and now Vice President Kamala Harris during her campaign for President to grant “parole in place” (i.e. granting parole to a person already in the United States) to millions of unlawfully present “Dreamers.”¹ Details of that plan are provided in the footnote below. Since aliens who are granted parole are able not only to work but also adjust their status to lawful permanent residence, such a parole program would, unlike the DACA program, constitute a de facto legalization program.
 - a. Based on your expertise as a former USCIS Chief Counsel, do you believe such a plan would be legal?

While I have briefly reviewed the site linked below, the proposal does not contain sufficient detail for me to opine on its legality, or on whether I would support such a proposal. If confirmed, I would work with the many excellent attorneys at USCIS and in the DHS headquarters Office of General Counsel to form legal opinions on legislative or policy objectives, ensuring compliance with the law at all times.

- b. Do you support such a plan?

As noted in my response to question #1a, the description of the proposal provided does not contain sufficient detail for me to form an opinion as to its legality. As a general statement, I support treating non-citizens with humanity within the confines of the law. If confirmed, I would work with the many excellent attorneys at USCIS and in the DHS headquarters Office of General Counsel to form legal opinions on legislative or policy objectives, ensuring compliance with the law at all times.

2. In our exchange regarding parole during your hearing, I expressed my belief that the various parole programs created over the years – especially during your time as Chief Counsel at USCIS – violated the statutory requirement that parole be granted “only on a case-by-case basis.” In response to my questions, I understood you to say that creating parole eligibility criteria describing an entire class of people – such as the eligibility criteria for CAM parole or for the “International Entrepreneur Parole” program – does not violate the “case-by-case” requirement because the eligibility for parole of each alien “requesting” parole is adjudicated on an individual basis. By that argument, though, the case-by-case requirement in the statute is rendered meaningless because *every* parole determination is necessarily made on an

¹ A New Roadmap to Citizenship for Dreamers: Full Policy, Kamala Harris for the People, 2019, <https://web.archive.org/web/20191204043427/https://kamalaharris.org/policies/daca-immigration-action/full-policy/>.

individual basis. Please clarify your defense of how these class-based parole programs do not violate the statutory case-by-case requirement.

It is my understanding of the law that the parole authority granted to the Secretary of Homeland Security by Congress is broad. It provides discretion to the Secretary with regard to which criteria he may use to determine on a case-by-case basis what constitutes “urgent humanitarian reasons” or a “significant public benefit.” Certain USCIS programs set forth guidance on who may be appropriately considered for parole based on urgent humanitarian reasons or significant public benefit. Nonetheless, an applicant must still submit a form, supported by evidence, and an adjudicator must still individually determine on a case-by-case basis whether that applicant satisfies the urgent humanitarian reason or significant public benefit and merits a favorable exercise of discretion. If confirmed, I will seek briefings from USCIS experts to ensure that my understanding of the applicable law, policy, and administration of parole are up to date, and commit to ensuring that USCIS continues to comply with all legal requirements.

3. During your hearing, Senator Blumenthal asked you if you would consider, as a means to alleviate the backlog of immigrant visa cases, granting parole to the children and spouses of people with approved immigrant petitions. Congress has established caps on the number of persons who may be admitted as immigrants each year, and parole programs like the one proposed by Senator Blumenthal, or like the Haitian Family Reunification Parole Program, that effectively allow people to immigrate to the United States years before an immigrant visa is actually available for them undermine the immigration regime established by Congress. If immigrant visa availability or visa processing wait times have become unreasonable, it is for *Congress* to address the issue if it chooses to do so, not the Executive. Please explain to me why you believe paroling potentially hundreds of thousands of people into the United States years before the law prescribes that they may be admitted as immigrants does not undermine the immigration regime established by Congress.

. In response to Senator Blumenthal’s question, I stated that if confirmed, I would be happy to take a look at the legislative or policy objective he mentioned, and that consideration of such a proposal “would require reviewing the parole provision with regard to the individuals [he was] mentioning, and to determine whether the law allows for such facts.” If confirmed, I will work with Congress to provide technical assistance in much the same manner as I laid out in my response to Senator Blumenthal: transparently, expeditiously, and ensuring that any such assistance comports with applicable law.

4. Is it appropriate to use parole to allow entry into the United States of a class of people meeting pre-established eligibility criteria to do something already covered by an existing visa classification, or by a bill that has not passed Congress? I note that you criticized the Trump Administration for using executive authority under section 212(f) of the INA to, in your opinion, effectively implement restrictions on the admission of immigrants that were part of an immigration reform bill that was considered but not passed by Congress.

As I noted in my response to question 2 above, it is my understanding that the parole authority granted to the Secretary of Homeland Security by Congress is broad, and provides discretion to the Secretary on which criteria he may use to determine, on a case-by-case basis, what constitutes “urgent humanitarian reasons” or a “significant public benefit.” With that said, I understand your question regarding whether having been considered for statutory relief by Congress, even if the bill was not passed, can appropriately serve as a sole criterion for granting parole. If confirmed, it will be my responsibility to administer our nation’s immigration system consistent with applicable laws—not those merely considered, but not passed, by Congress.

5. The Biden Administration has announced it is restarting the Central American Minors, or “CAM,” program. When it was in effect during the Obama Administration, the approval rate for refugee applications under CAM was reportedly only around 25%. With such a low percentage found to be actual refugees from persecution, how do you expect the CAM refugee program to have any effect at all in reducing migrant pressure on the southwest border?

As I understand it, the Central American Minors program existed for fewer than three years, and was terminated before Congress, the Department of State, and USCIS had sufficient time to measure its effectiveness and make needed improvements. If confirmed, I would seek to understand how the previous version of the CAM program worked and what resources it was provided, and whether there are ways it could be made more effective.

With that said, no single program is going to provide a solution to address irregular migration to our southern border. Instead, a multi-pronged strategy is required. Such a strategy should include, but not be limited to, expanding and providing safe, legal pathways to enter the United States and addressing the root causes of migration in order to reduce the incentive to make the dangerous journey to the U.S. southern border.

6. In normal circumstances, asylum seekers apprehended at the southwest border are screened for credible fear of persecution by USCIS and then, if they are found to have a credible fear, are issued a Notice to Appear in immigration court to have their full claim adjudicated by an immigration judge.
 - a. Do you believe that USCIS should be adjudicating in their entirety the asylum claims of aliens apprehended at the southwest border and that the immigration courts should be removed from the process?

I have not reviewed in depth proposals that would shift adjudication of asylum claims from the DOJ Executive Office for Immigration Review (immigration courts) to USCIS asylum officers. I have said a number of times that a functioning immigration system is one in which those applicants who are eligible for benefits receive them expeditiously, while those who are not eligible are expeditiously denied.

If confirmed, I would prioritize working with Congress and the Administration to understand and assess proposals to modify adjudication of asylum claims, while ensuring that such claims are adjudicated in a fair and efficient manner, consistent with the law.

- b. If so, where would the asylum seeker be detained during the potentially months-long process of adjudicating their asylum claim?

As I stated in my response to the previous question, I have not reviewed in depth proposals relating to shifting responsibility for asylum adjudications from EOIR to USCIS. USCIS has no role in detention decisions. The question on whether to detain an asylum seeker would be made by Immigration and Customs Enforcement, not USCIS.

7. In your opinion, as a former USCIS Chief Counsel:

- a. Is fleeing generalized crime a ground for asylum?
- b. Is fleeing poverty a ground for asylum?
- c. Is fleeing the alleged effects of climate change a ground for asylum?
- d. Is domestic abuse a ground for asylum?

Under the Immigration and Nationality Act, it is my understanding that asylum claims are adjudicated on a case-by-case basis, taking into consideration the totality of the facts in each case. I am aware of the complexity surrounding the statute and case law on this subject, particularly in the last few years when many changes were made. Because it has been four years since I have carefully studied this area of law, if confirmed, I would work with agency lawyers to fully understand this complex area of law. With that said, it is my understanding that depending on the facts of the case, someone who has been a victim of domestic abuse may qualify for asylum. Generally, fleeing generalized violence, environmental factors, and poverty alone are not grounds for asylum, but such conditions could be, and often are, experienced in tandem with conditions that do qualify.

8. In your opinion as a former USCIS Chief Counsel, is a “safe third” country, for purposes of section 208 of the Immigration and Nationality Act, a country where the alien is safe from persecution from the government, or safe from crime and/or poverty generally?

Section 208 of the Immigration and Nationality Act defines the term “safe third country” as applying to countries in which an asylum applicant’s life or freedom are not threatened on account of a number of factors -- “race, religion, nationality, membership in a particular social group, or political opinion.” The country in question must also provide for a “full and fair procedure for determining a claim to asylum or equivalent temporary protection.” If confirmed, and if involved with this question as Director of USCIS, I would apply this law to the facts of each individual country in question, after consultation with agency and other Administration legal and policy experts, to determine if it is a “safe third country.”

9. Should DHS remove an unaccompanied minor who is denied asylum and is the subject of a final order of removal?

Under the law, it is my understanding that unaccompanied children are allowed to apply for asylum before a USCIS asylum officer in a non-adversarial, age-appropriate interview. If an unaccompanied child is denied asylum, he or she is referred to an immigration judge for further consideration. USCIS has no role in removal decisions. The question on whether to remove unaccompanied children with final orders of removal would be made by Immigration and Customs Enforcement, not USCIS.

10. Should DHS remove the members of a family group who are denied asylum and are the subject of final orders of removal?

As stated in question #9, USCIS has no role in removal decisions. The question on whether to remove members of a family group with final orders of removal would be made by Immigration and Customs Enforcement, not USCIS.

11. Do you support changing the screening requirements for refugees?

To ensure the integrity of all of our immigration programs, effective and robust security vetting procedures are necessary. I support the ongoing review of these protocols, including those required for refugee applicants, to ensure that screening requirements continue to be effective in detecting national security concerns and fraud. If confirmed, I am also committed to working with our vetting partners to support greater efficiencies in and other improvements to those processes.

12. Should the refugee ceiling be set at a level greater than the number of refugees that USCIS and the State Department could reasonably be expected to screen and process in a given year?

While USCIS resources are finite, it is my belief as a private citizen that setting an aspirational refugee ceiling as a goal, rather than a benchmark that will necessarily be met, demonstrates the United States' commitment to global leadership, and is consistent with the welcoming values set out at our country's founding. While the President, and not the Director of USCIS, sets the refugee ceiling each year, if confirmed, I look forward to working with the President and with Congress to carry out USCIS' statutory duties as they relate to refugee admissions.

13. Do you believe a country should maintain its Temporary Protected Status (TPS) designation if its nationals are regularly being removed by DHS to that country?

In general, it is my understanding that the Secretary of Homeland Security may, in his discretion, designate a foreign country for TPS if conditions described in section 244 of the Immigration and Nationality Act (INA) are met and must extend a TPS designation if those conditions continue to be met. At the same time, enforcement priorities and other individual circumstances may lead the Secretary to remove individuals to such a country under

immigration enforcement authorities in other parts of the INA. It is my understanding that the law generally does not mandate that these different authorities be administered in a mutually exclusive manner.

14. Should TPS be granted to someone who has been living illegally in the U.S. for years before the TPS-creating event and who states they have no intention of ever returning to live in their country?

It is my understanding that under current law, an individual can apply for TPS if they are a national of a country designated for TPS, or a person without nationality who last habitually resided in the designated country, and they meet other certain criteria. The law does not require lack of intent to live in the U.S., nor does it limit the length of residence in the U.S. prior to a designation being made.

15. In 2020 you said the Title 42 order is turning away “people who are leaving their home countries to come to the United States ... escaping more than sickness. ... People are fleeing from kidnapping, rape, murder. Things where, if they go bad, it may be life-or-death.” Do you agree with the Biden Administration’s continued use of Title 42 to expel persons apprehended at the southwest border?

Title 42 is a public health authority established by the Centers for Disease Control, not under the authority of USCIS, which authorizes the suspension of entry of persons coming from areas with a communicable disease like COVID-19. It is my understanding that the current Title 42 order includes certain exceptions to the general suspension of entry. For example, unaccompanied children are not subject to expulsion under the order, and exceptions can be made on a case-by-case basis if there are significant law enforcement, public safety, humanitarian, or public health interests. With that said, I generally defer to the Centers for Disease Control on whether travel into the United States may prevent a potential or ongoing pandemic, and will continue to do so if I am confirmed as Director of USCIS.

16. Do you agree with President Biden’s suspension of entry as nonimmigrants into the United States of people who have been in India during the 14-day period preceding their entry or attempted entry into the United States?

Public health determinations such as this are made by the Centers of Disease Control; I defer to their expertise in this area.

17. When the Trump Administration published its public charge regulation you said “The public charge provision was only meant as the exception, not the rule.” What did you mean by that? I can tell you as a conferee in 1996 when we reviewed the public charge issue, we in Congress did not intend it to be the exception. How do *you* define “public charge”?

It is my understanding that the public charge provision under 212(a)(4) of the Immigration and Nationality Act is one ground of inadmissibility for foreign nationals who, but for this provision, may be admissible. For example, if the government decides that a foreign national family member is likely to become dependent on certain public benefits for subsistence in the

future, the public charge provision may bar a U.S. citizen or lawful permanent resident from reuniting with close family members, such as a spouse, in the United States. Under current policy, such public benefits include cash assistance for income maintenance and institutionalization for long-term care at government expense.

18. Do you consider fraud investigations to be a permissible use of USCIS fee funds?

Like the majority of USCIS directorates and program offices, FDNS has been funded through the Immigration Examinations Fee Account since its creation in 2004. FDNS is the USCIS component responsible for leading agency efforts aimed at detecting those who seek to exploit or abuse our nation's immigration system. FDNS does this by providing guidance, operational support, and oversight to programs and activities relating to national security, public safety, fraud detection and deterrence, and information sharing. FDNS Immigration Officers are posted in USCIS Service Centers, Regional Offices, District Offices, Field Offices, and Asylum Offices across the United States.

19. The Historical Fingerprint Enrollment ("HFE") Program was implemented by DHS as a result of a 2016 OIG Report, and a follow-up report in 2017, in which the OIG identified a population of thousands of cases in which an alien ordered removed was granted citizenship under a false identity due to the lack of digital biometrics. In 2017, USCIS established an HFE Unit to identify and investigate these cases. The team presents cases to the Department of Justice for civil denaturalization where it determines that the subjects used multiple identities to procure naturalization either illegally or by willful misrepresentation or concealment.

- a. Do you believe people who were ordered removed years ago but who subsequently obtained U.S. citizenship based on a false identity should be denaturalized?

I remain committed to ensuring the integrity of our immigration system. It has been more than four years since my tenure at USCIS when this issue was first being reviewed. I understand USCIS has been active on this issue over the last four years and I welcome the opportunity, if confirmed, to carefully review and assess USCIS findings and actions since 2017.

- b. If confirmed as Director would you shut down the USCIS Historical Fingerprint Enrollment office that identifies fraudulent naturalization cases that have come to light as a result of the digitization of old immigration service fingerprint cards?

As stated in (a), if confirmed as Director, I commit to reviewing and assessing all programs at USCIS, including this one.

20. Will you commit to maintaining a high level of agency transparency regarding processing- and adjudication-related USCIS statistics, and to publish, at a minimum, all the same sets of statistics as were published by USCIS during the Trump Administration?

If confirmed, I will ask to be briefed on all the data that is now made available on the USCIS website. I am firmly committed to providing the transparency to the American public, the Congress, and all USCIS stakeholders.

21. Will you commit to continue publishing, in the interest of maximum agency transparency, all the data sets that used to be published on USCIS's now-terminated Buy American, Hire American website? This includes the data sets entitled:

- H-1B Petitions by Gender and Country of Birth;
- Approved H-1B Petitions by Employer;
- Nonimmigrant Worker Petitions by Case Status and Request for Evidence (RFE);
- H-1B Quarterly Request for Evidence (RFE) FY2015-FY20xx Top 30 Employers;
- Form I-765, Application for Employment Authorization, Eligibility Category and Filing Type;
- I-765 Applicants for Employment Authorization for H-4 Non-Immigrants by Gender and by Country of Birth FY 2015-2018; and
- Approved L-1 Petitions by Employer.

I will review these data sets to better understand which are already made available on the USCIS website. I am firmly committed to providing transparency to the American public, the Congress, and all USCIS stakeholders.

22. Will you commit to maintaining the "H-1B Data Hub" on the USCIS website?

I am firmly committed to providing transparency to the American public, the Congress, and all USCIS stakeholders. I look forward to being briefed on the H-1B Data Hub.

23. As Director, is there any immigration interest group that you would refuse to meet with?

If confirmed, consistent with my obligations as Director of USCIS, I will be open to meeting with all immigration stakeholders focused on helping USCIS achieve its mission.

24. If confirmed, do you plan to select a career official to be USCIS Deputy?

In my previous role as Chief Counsel, I worked closely with dozens – if not hundreds – of career public servants who were deeply committed to helping USCIS achieve its mission. I have deep respect for their knowledge and expertise. If confirmed, I plan to meet with all leadership, including career leadership, to develop plans for senior leadership of USCIS after being briefed on current agency operations.

25. Do you consider the issuance of a Notice to Appear to be an appropriate function of USCIS?

Yes.

26. If USCIS denies an immigration benefit applied for by someone who is present in violation of their immigration status, should USCIS issue that person a Notice to Appear in immigration court?

This is a complex issue that must be reviewed together with ICE which holds responsibility for ensuring that Notices to Appear that are issued will be properly filed with the immigration court. If confirmed, I would work with ICE to fulfill USCIS' responsibilities in this area.

27. In December 2015, while you were Chief Counsel at USCIS, the FBI reportedly received a tip that Enrique Marquez and his wife, who were suspected of having supplied weapons to the San Bernardino killers, Syed Farook and Tashfeen Malik, were scheduled to attend an immigration-related interview at a local USCIS office on December 3, the day after the killings. When armed Homeland Security Investigations agents showed up at the office to arrest Marquez and his wife, they were initially blocked from entering by USCIS staff. Whatever protocols that prevented the USCIS office director from promptly admitting the ICE HSI agents appear to have been corrected since that time to prevent a recurrence.

- a. Whatever current USCIS protocols may be, do you personally believe ICE HSI agents should be allowed to arrest wanted criminal aliens inside USCIS offices?

I believe in a collaborative relationship between USCIS and ICE.

- b. Do you believe it is appropriate for USCIS and ICE to coordinate, prior to the arrival of an alien with an arrest warrant or related removal order at a USCIS office for a scheduled appointment, in order to effect that alien's arrest inside the USCIS office?

I believe that appropriate coordination should be made between USCIS and ICE.

28. In response to questioning from Senator Cruz during your confirmation hearing regarding birth tourism, you said that if the visa applicant engaged in fraud, by which I assume you meant misrepresenting the primary purpose of travel to the consular officer or inspecting officer, then that would definitely be a problem, as such fraud or misrepresentation would make the alien inadmissible. Your answer appears to sidestep the real issue, which is whether birth tourism is an appropriate B visa activity.

- a. Do you believe that travel to the United States for the primary purpose of obtaining U.S. citizenship for a child by giving birth in the United States is an appropriate B visa activity?

If confirmed, my role as Director of USCIS would be to faithfully administer our nation's immigration laws, while taking all appropriate actions to guard against fraud and abuse. As you know, pregnant women may travel to the U.S. on a B nonimmigrant visa if, like all applicants for B visas, they meet certain requirements and pass a consular interview. The Department of State processes B visas for foreign national applicants and Customs and Border Protection makes the determination of whether to admit them at ports of entry. Neither of these duties fall under USCIS. If

the law or policy changes and this issue comes before the Director of USCIS, if confirmed, I would seek to be briefed by relevant State Department and CBP experts, and would be happy to consult with Congress on this issue.

- b. If an alien openly admits to a consular officer or a CBP inspector that their primary purpose of travel to the United States is to obtain U.S. citizenship for a child by giving birth in the United States – in other words, does not misrepresent their purpose of travel – do you believe they have stated a purpose of travel that would violate the restrictions under section 101(a)(15)(B) of the Immigration and Nationality Act? If not, why not?

Please see the answer above.

29. Please explain with particularity the process by which you answered these questions.

All responses to these questions are my own. In drafting and editing these responses, I conducted my own research and requested and received assistance from appropriate personnel at the Department of Homeland Security and at U.S. Citizenship and Immigration Services, whose counsel I was free to accept or reject.

30. Do these answers reflect your true and personal views?

Yes.

Senator Blackburn
Questions for the Record to Ur Mendoza Jaddou
Nominee to be Director of USCIS

1. Birth Tourism describes the activity of foreigners who travel to the United States with the primary purpose to obtain U.S. citizenship for a child by giving birth. Birth tourists take advantage of birthright citizenship to evade immigration law and taxes and access the benefits of being a U.S. citizen without residence or contribution to our country.
 - a. Do you believe that travel to the United States for the primary purpose of obtaining U.S. citizenship for a child by giving birth is an appropriate activity under section 101(a)(15)(B) of the Immigration and Nationality Act or lawful use of any nonimmigrant visa?

If confirmed, my role as Director of USCIS would be to faithfully administer our nation's immigration laws, while taking all appropriate actions to guard against fraud and abuse. As you know, pregnant women may travel to the U.S. on a B nonimmigrant visa if, like all applicants for B visas, they meet certain requirements and pass a consular interview. The Department of State processes B visas for foreign national applicants and Customs and Border Protection makes the determination of whether to admit them at ports of entry. Neither of these duties fall under USCIS. If the law or policy changes and this issue comes before the Director of USCIS, if confirmed, I would seek to be briefed by relevant State Department and CBP experts, and would be happy to consult with Congress on this issue.

- b. Do you believe birth tourism is fair to the many lawful immigrants who must go through the long naturalization process?

As stated above, under current law and policy, it is my understanding that the State Department and CBP are responsible for making determinations in relation to B visas. If confirmed as USCIS Director, my role would be to administer the bulk of the naturalization provisions of the Immigration and Nationality Act in a fair, efficient, and secure manner. I commit to doing so if confirmed, and would welcome the opportunity to work with you and your staff in that regard.

**Nomination of Ur Mendoza Jaddou
to be Director of the United States Citizenship and Immigration Services Questions
for the Record**

Submitted June 2, 2021

QUESTIONS FROM SENATOR COTTON

1. Since becoming a legal adult, have you ever been arrested for or accused of committing a hate crime against any person?

No.

2. Since becoming a legal adult, have you ever been arrested for or accused of committing a violent crime against any person?

No.

3. On July 9, 2018, while you were the Director of “DHS Watch” at “America’s Voice,” a post by “America’s Voice” on its website listed “the many, many reasons why [Immigration and Customs Enforcement] is a rogue agency.” Among the alleged reasons why ICE is a “rogue agency” is that ICE “[i]ncreased immigration arrests nearly 40 percent in 2017 over the same period from 2016.” Should ICE deport illegal aliens?

Under the Immigration and Nationality Act, it is my understanding that there are multiple provisions that govern whether certain individuals may be removed under the law. However, those provisions are administered by the Director of ICE, and if confirmed as USCIS Director, I generally would not be responsible for such decisions. If confirmed as USCIS Director, my general responsibility would be to effectively administer the legal immigration processing system to the best of my ability under the law.

4. In early 2020, was President Trump justified in closing off most international travel into the United States to prevent the spread of the Wuhan coronavirus?

I generally defer to the Centers for Disease Control on whether travel into the United States may prevent a potential or ongoing pandemic, and will continue to do so if I am confirmed.

5. In August 2019, you are quoted in a press release by “America’s Voice” in which you criticized the Trump administration for updating the “public charge” grounds for inadmissibility to the United States. In your statement, you wrote that the “public charge provision was only meant as the exception, not the rule.” What do you believe to be the purpose of the “public charge” provision in our immigration law?

It is my understanding that the public charge provision under 212(a)(4) of the Immigration and Nationality Act (INA) is one ground of inadmissibility for foreign nationals who, but for this provision, may be admissible. For example, if the government decides that a foreign national family member is likely to become dependent on certain public benefits for subsistence in the future, the public charge provision may bar a U.S. citizen or lawful permanent resident from reuniting with close family members, such as a spouse, in the United States who might otherwise be eligible under Section 201 or 203 of the INA. Under current policy, such public charge benefits include cash assistance for income maintenance and institutionalization for long-term care at government expense.

6. If you are confirmed, you will lead the United States Citizenship and Immigration Services. Would your client be the United States, or foreign citizens who wish to come to the United States?

If confirmed, I would take my oath of office to defend and uphold the Constitution of the United States of America. I take that obligation very seriously and all decisions I will make, if confirmed, will be driven by the obligation that the oath demands. If confirmed as Director of USCIS, I will execute my duties under the Homeland Security Act and the Immigration and Nationality Act to the best of my abilities, including the adjudication of: 1) immigrant visa petitions by U.S. citizens, lawful permanent residents and U.S. employers; 2) naturalization petitions by lawful permanent residents; 3) asylum and refugee applications; 4) other benefit requests adjudicated at service centers and field offices; and, 5) any other adjudication service that was performed by the former Immigration and Naturalization Service.

7. Do you believe the role of USCIS is to simply approve as many immigration applications as possible, or to vigorously apply and enforce our immigration laws?

If confirmed as Director of USCIS, it would be my duty to effectively apply and enforce the immigration laws that are under the authority of USCIS to the best of my ability.

8. Your Twitter account describes you as the director of “DHS Watch.” Have you used your Twitter account and other social media to engage in policy advocacy or make statements about immigration policy?

My somewhat seldom tweets largely echoed some press releases and other communications issued during my time as director of DHS Watch at America's Voice. I have not tweeted or retweeted since July 2020.

9. Your Twitter account is currently set to "private," meaning that your tweets can only be viewed by individuals whose access you approve. Prior to your nomination to lead USCIS, was your Twitter account set to allow public viewing?

I cannot recall the exact date on which I made my Twitter account private. However, it was in 2020.

10. If your Twitter account was set to allow public access prior to your nomination, when did you set your Twitter account to "private"?

I cannot recall the exact date on which I made my Twitter account private in 2020.

11. Did you discuss with anyone in the Biden administration or transition team anything related to setting your Twitter account to "private" or deleting or removing particular public posts?

No one from the Biden administration or transition team raised concerns with me regarding my social media presence. The transition team did provide general cybersecurity advice to volunteers, including optional recommendations to secure accounts against cyber threats.

- a. If so, did anyone in the Biden administration or transition team suggest that you set your Twitter account to "private" or delete or remove particular public posts?

Given the high incidence of cybersecurity and other dangers on the internet, I have been advised multiple times to protect myself and my family to the greatest extent possible, including by making internet accounts like Twitter private. I have not been advised to delete or remove a particular public post.

12. Please describe with particularity the process by which you answered these questions and the written questions of the other members of the Committee.

All responses to these questions are my own. In drafting and editing these responses, I conducted my own research and requested and received assistance from appropriate

personnel at the Department of Homeland Security and at U.S. Citizenship and Immigration Services, whose counsel I was free to accept or reject.

13. Did any individual outside of the United States federal government write or draft your answers to these questions or the written questions of the other members of the Committee? If so, please list each such individual who wrote or drafted your answers. If government officials assisted with writing or drafting your answers, please also identify the department or agency with which those officials are employed.

Please see my response to question #12.

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

Questions for the Record for Mendoza Jaddou, Nominee for Director, U.S. Citizenship & Immigration Services (“USCIS”)

1. In July 2020, you described protesters in Portland, Oregon, and around the country as “peaceful” and advocated for the suspension of funds to Customs and Border Patrol (“CBP”), as well as other spending reforms, “[u]nless Trump’s CBP stops attacking peaceful protestors around the country, and until they have real reform and meaningful accountability....” Do you stand by that statement?

CBP officers unquestionably serve their country with honor and dignity, and I have tremendous respect for their difficult mission. Like many other concerned citizens, during the summer of 2020, I raised questions and expressed concern regarding some elements of the Administration’s response to protests, including seemingly unprecedented deployment of DHS officials.

In fact, my [July 24, 2020, statement](#) did not call for a suspension of funds to U.S. Customs and Border Protection. Rather, I called for answers and accountability to the apparently unprecedented action and use of resources by DHS officials. In doing so, I recommended that Congress should deny a mid-year request for a small amount of supplemental funding. This reprogramming would have been on top of regularly appropriated funding. As a general matter, I am supportive of transparency and accountability relating to funds appropriated by Congress.

2. You have described CBP officers as the “personal militia” of President Trump, stating, “[a]s our states, cities and towns are begging for more funding to stave off an economic collapse in the midst of a once-in-a-century pandemic, CBP has the audacity to propose moving money around, defying Congressional opposition so that their agents can continue to be the personal militia of the President.”
 - a. Please explain how CBP officers—many of whom continue to serve their country with honor and dignity—served as the “personal militia” for President Trump.

CBP officers unquestionably serve their country with honor and dignity and I have tremendous respect for their difficult mission. In my July 24, 2020, statement, I focused specifically on what was being reported in the media as special units directed by DHS leadership to take what appeared to be unprecedented and concerning action in response to protests that strayed from the traditional mission of the agency.

b. Do you believe that CBP officers in fact served as President Trump's personal militia?

Please see my response to question #2a.

c. Do you regret using this overheated and false rhetoric?

Please see my response to question #2a.

3. Regarding proposals to deal with Birth Tourism, you have noted that they are "nothing more than a new roadblock for women just because their bodies can become pregnant." The regulation, according to your previous statements, is "a clear attack on women and their bodies just because they can have babies." Do you still consider policies meant to control and prevent birth tourism a "clear attack on women and their bodies"? Please explain.

If confirmed, my role as Director of USCIS would be to faithfully administer our nation's immigration laws, while taking all appropriate actions to guard against fraud and abuse. As you know, pregnant women may travel to the U.S. on a B nonimmigrant visa if, like all applicants for B visas, they meet certain requirements and pass a consular interview. The Department of State, processes B visas for foreign national applicants and Customs and Border Protection makes the determination of whether to admit them at ports of entry. Neither of these duties fall under USCIS. If the law or policy changes and this issue comes before the Director of USCIS, if confirmed, I would seek to be briefed by relevant State Department and CBP experts, and would be happy to consult with Congress on this issue.

4. Define what you understand to be “birth tourism.” Do you believe that “birth tourism” is a significant problem in the United States?

Please see my response to question #3.

5. If individuals seeking asylum could have their claims finally adjudicated in fewer than three months, would you support detaining these individuals for the pendency of their legal proceedings to ensure that only those individuals entitled to remain in the United States remain in the United States?

If confirmed as Director of USCIS, I would seek to ensure that USCIS has enough officers available to adjudicate in a fair, efficient, and humane manner credible fear claims, asylum applications, and any case sent to USCIS from Customs and Border Protection for non-refoulement screening under the Title 42 order. In addition, I understand that USCIS is currently assisting the Department of Health and Human Services in its role to ensure children are quickly placed in safe and loving homes; if confirmed, I would continue to support those efforts. The detention of individuals seeking asylum would be under the authority of CBP and ICE not USCIS.

6. You have sharply criticized the Trump Administration for its “public charge” rule policy. Please explain why it was wrong, and what policy you plan to advocate in its place.

It is my understanding that the public charge provision under 212(a)(4) of the Immigration and Nationality Act is one ground of inadmissibility for foreign nationals who, but for this provision, may be admissible. For example, if the government decides that a foreign national family member is likely to become dependent on certain public benefits for subsistence in the future, the public charge provision may bar a U.S. citizen or lawful permanent resident from reuniting with close family members, such as a spouse, in the United States. Under current policy, such public benefits include cash assistance for income maintenance and institutionalization for long-term care at government expense.

As an advocate in the role of Director of DHS Watch, I raised concerns regarding the Trump Administration’s public charge rule because it imposed what I felt were unprecedented wealth, health, age and other restrictions on legal immigration.

If confirmed as Director of USCIS, I would ask to be briefed by agency experts to understand the state of the most recent public charge rule, and the reasons behind it, before assessing whether and how to propose policy changes.

**Senator Josh Hawley
Questions for the Record**

**Ur Mendoza Jaddou
Nominee, Director of U.S. Citizenship & Immigration Services**

- 1. Missouri residents Adam and Jill Trower have been seeking to adopt a child from the Democratic Republic of the Congo for almost two years. It took 18 months for them to receive a reply from USCIS, which subsequently notified them that their petition would likely be denied on grounds that they view as inconsistent with controlling law. Accordingly, the Trowers submitted an appeal letter to USCIS at the end of March of this year, but do not know when or if they can expect to hear back. If you are confirmed as USCIS Director, will you commit that USCIS will fully and fairly consider the merits of the Trower family's petition and provide a decision as soon as possible?**

Yes, absolutely. When it comes to reuniting families in the U.S., especially when it involves children, adjudication of immigration-related applications should be as efficient as possible under the law. If confirmed, you have my commitment that USCIS will fully and fairly consider the merits of this case and provide a decision as soon as possible.

Senator Mike Lee
Questions for the Record

Ur Mendoza Jaddou
Nominee, Director of U.S. Citizenship & Immigration Services

1. During the last administration you repeatedly criticized President Trump's use of executive authority as it related to immigration policy. A few months into the global pandemic, you criticized his blocking entry of certain classes of immigrants into the country, commenting: "[W]ith a stroke of a pen and without a single act of Congress" President Trump had "fundamentally changed decades-long immigration preferences established by Congress."

If Congress fails to come to a legislative agreement on DACA, could the executive branch fabricate a path forward for those currently under deferred action by exploiting discretionary parole authority?

It is my understanding that DACA is currently being administered by USCIS under a June 15, 2012 Department of Homeland Security memo entitled "Exercising Prosecutorial Discretion with Respect to Individuals Who Came to the United States as Children." If confirmed, I look forward to working with USCIS personnel and Administration officials, including the Secretary, to continue administering the DACA policy consistent with court orders, and to providing Congress timely and accurate technical assistance on any legislative proposals relating to Dreamers, if requested.

2. When Congress, in statutory language governing an agency, uses the word "shall," is the subject action mandatory or optional?

For example, what discretion is granted to an agency if a statute contains the following language: "If the officer determines at the time of the interview that an alien has a credible fear of persecution (within the meaning of clause (v)), the alien *shall* be detained for further consideration of the application for asylum"? (8 USC §1225 (b)(1)(B)(ii))

It is my understanding that the word "shall" generally denotes mandatory action. However, it is also my understanding that other statutory provisions in the law could modify what may seem to be clear mandates in

one section of the law and that the broader context of statutes can sometimes inform the legislative intent of specific words. If confirmed, I would consult with legislative and other counsel on any questions or issues regarding statutory language, intent, and case law.

3. Does the Immigration and Naturalization Act give DHS authority to issue employment authorization to any identified group or class of immigrants it finds sympathetic?

The Immigration of Nationality Act provisions and implementing regulations set forth which noncitizens are authorized for employment in the United States, based on specific criteria. If confirmed, I will work with agency legal and policy experts to ensure the agency's practices relating to employment authorization continue to comply with applicable law.

4. I and many of my colleagues have long been concerned with the perverse incentives we create through cyclical amnesties. Had we passed the DREAM Act in 2018 and granted amnesty to all the children brought here before that point, what would you propose to do with the unprecedented numbers of Unaccompanied Alien Children currently in custody at our Southern Border? What is the limiting principle here?

As Director of USCIS, my role with regard to unaccompanied children at our southern border would be limited to ensuring that USCIS has enough officers available to adjudicate in a fair, efficient, and humane manner asylum applications and petitions for special immigrant juvenile status. If confirmed, I would adhere to the requirements under current law governing the treatment of unaccompanied children that arrive at our southern border.

With regard to any proposed changes in law, if confirmed, I would welcome the opportunity for USCIS to work with you and your staff to provide technical assistance on proposed legislation.

5. As you are aware, the practice of Birth Tourism is becoming increasingly prevalent and problematic. Particularly in US Territories which do not require tourists to apply for or receive a visa, the numbers of immigrants who visit with the intention of giving birth and giving their child US citizenship—and thereby giving themselves a

pathway to citizenship—is continuously increasing. In 2018, just in the Northern Mariana Islands, 600 babies were born to foreign women visiting the island. Ninety-five percent of these babies were born to Chinese nationals who did not receive any State Department screening; none at all.

But the problem isn't confined to the Mariana Islands. Birth tourism is a problem here in the states as well. Under the Trump administration, the State Department published a final rule specifically excluding birth tourism as appropriate activity on a "B" tourist visa. You took exception to the State Department's solution to this problem: giving the consular office discretion to determine whether a woman intended to give birth during her stay in the United States. The B-visa allows a traveler to stay in the United States no longer than six-months.

Ms. Jaddou, you suggested that this regulation was "nothing more than a new roadblock for women just because their bodies can become pregnant." As a nominee for the Director of USCIS, do you consider the practice of birth tourism to be a problem? If so, what policy would you propose to curb this practice?

If confirmed, my role as Director of USCIS would be to faithfully administer our nation's immigration laws, while taking all appropriate actions to guard against fraud and abuse. As you know, pregnant women may travel to the U.S. on a B nonimmigrant visa if, like all applicants for B visas, they meet certain requirements and pass a consular interview. The Department of State, processes B visas for foreign national applicants and Customs and Border Protection makes the determination of whether to admit them at ports of entry. Neither of these duties fall under USCIS. As such, I do not anticipate proposing policies relating to this issue if I am confirmed as Director of USCIS. If the law or policy changes and this issue comes before the Director of USCIS, if confirmed, I would seek to be briefed by relevant State Department and CBP experts, and would be happy to consult with Congress on this issue.

6. Traditionally, USCIS has been a fee-funded agency. It has generally been accepted that tax payers should not be funding immigration, but rather the economic burden should be born by the applicants themselves. President Trump in his proposed budget requested \$459,000,000 of appropriated funding for USCIS. Do you support appropriated tax payer funding for USCIS?

USCIS has a proven track record of being able to manage its operations relying almost entirely on fees. USCIS is still recovering from the effects of the fiscal crisis last year that almost led to the furlough of 2/3 of its workforce and the effects of the pandemic that was also felt by other agencies that rely on fees for operation. It is my understanding that the FY2022 President's Budget requests \$345 million in appropriated funds to help USCIS continue to stabilize its finances, reduce its current backlog, and meet its other duties as the agency responsible for appropriately administering a functioning legal immigration processing system. If confirmed, I look forward to being briefed and working with Congress related to the President's budget request.

7. According to USCIS fee studies, estimated annual forgone revenue from fee waivers and exemptions has increased markedly, from \$613 million in the FY 2016/2017 fee review to approximately \$1.5 billion in the FY2019/2020 fee review. USCIS noted in its 2019 proposed fee rule that without changes to its fee waiver policy, fees would have to increase substantially to cover the cost of the waivers. Accordingly, USCIS proposed ending most fee waivers or exemptions that are not required by law in its 2019/2020 fee rule.

- a. Do you support fee waivers?

As a general principle, the processing of applications by U.S. federal agencies should not be limited to the wealthy, especially at USCIS where a large portion of applications are submitted by U.S. citizens seeking to reunite with close family members, lawful permanent residents seeking naturalization, and U.S. employers large and small, as well as for profit and non-profit. As you note, fee waivers are one option USCIS has pursued in the past to attempt to uphold that principle. If confirmed, I look forward to working with the agency's Chief Financial Officer to have a better understanding of the agency's financial position and to develop a responsible fiscal path forward for USCIS, including as it relates to fee waivers.

- b. Do you support increasing fees for some to allow fee waivers for others?

As I note above, if confirmed, I look forward to working with the agency's Chief Financial Officer to have a better understanding of the agency's financial position and to develop a responsible fiscal path forward for USCIS, including a review of fees and fee waivers.

- c. Assuming you reject ending most fee waivers and exemptions, how would you, if confirmed as Director, plan to make up the hundreds of millions of dollars in annual foregone revenue from discretionary fee waivers?

As I noted above, if confirmed, my first step would be to work with the agency's Chief Financial Officer to have a better understanding of the agency's financial position, to have a clear understanding of the amount of statutorily required fee waivers required by, but not funded by, Congress versus non-statutory fee waivers, and to develop a responsible fiscal path forward for USCIS that also attempts to ensure that USCIS application processing is not reserved to the wealthy.

8. On April 21, 2021, DHS reportedly sent to the White House for approval a plan to "enhance" procedures for becoming a naturalized citizen. Under the plan, according to reporters who have viewed it, the agency would continue subsidizing the costs of becoming a citizen to make sure the process is available to as many people as possible. The plan reportedly states that the Administration "recognizes that the cost of fees can be a barrier" so "other fee-paying applicants and petitioners will continue to subsidize this policy decision to ensure full cost recovery." On May 17, the USCIS Chief of Staff, Felicia Escobar Carrillo, said "[t]here will be a need for some fee increases probably."
 - a. Do you believe, as a general matter, it is appropriate for USCIS – on its own and without formal direction from Congress – to decide as a policy matter to promote applications for a particular type of benefit by setting the application fee at a level substantially below cost and then passing on that difference in cost to filers of applications for other types of benefits?

It is my understanding that USCIS sets its fees under the authority of section 286 of the Immigration and Nationality Act, generally a broad authority that does not proscribe specific fees for any service rendered by USCIS. The agency has historically considered policy priorities as a factor, consistent with the law, when determining fee levels for particular services. If confirmed, I commit to working with USCIS' Chief Financial Officer, as well as with stakeholders and Congress, to develop a

responsible fiscal path forward for USCIS that also attempts to ensure USCIS application processing is not reserved to the wealthy.

- b. If so, do you believe USCIS also has the authority to *disincentivize* applications for certain types of benefits by setting the application fee at a level substantially *above* cost?

Please see my answer to #8(a).

9. If a USCIS immigration officer denies a claim for benefits and finds the applicant has no legal status, should the officer initiate a Notice to Appear for that applicant so his/her status might be adjudicated?

This is a complex issue that must be reviewed together with ICE which holds responsibility for ensuring that Notices to Appear that are issued will be properly prosecuted before the immigration court. If confirmed, I would work with ICE to fulfill USCIS' responsibilities in this area.

10. A recent change at USCIS put the burden of ensuring an application is submitted with all the required evidence on the applicant. This is not an unusual burden—certainly it is incumbent upon all of us when applying for any benefit to ensure our own application is complete and correct. In this case, if the application is incomplete when submitted, it will be denied. With the adjudication backlog and the resource constraints at USCIS, it is beneficial to the agency to incentivize applicants to only submit completed applications. Do you support this policy change?

If confirmed, to appropriately address this question, I would need to see all relevant documents, and would look to discuss with agency experts the reasons for the change and whether the change has achieved its objective; only then could I effectively opine on the referred policy change. If confirmed, I welcome the opportunity to review this issue.

**Questions for the Record for
Senator Thom Tillis for
Ms. Ur Mendoza Jaddou**

1. You criticized the Trump Administration for its use of Title 42 authority at the southern border. What are your views on the continued use by the Biden Administration of Title 42 authority at the border? Will you commit to supporting the administration's continued use of this important authority?

Title 42 refers to a public health authority held by the Centers for Disease Control which authorizes the suspension of entry of persons coming from areas with a communicable disease like COVID-19. It is my understanding that the current Title 42 order includes certain exceptions to the general suspension of entry. For example, unaccompanied children are not subject to expulsion under the order, and exceptions can be made on a case-by-case basis if there are significant law enforcement, public safety, humanitarian, or public health interests. I generally defer to the Centers for Disease Control on whether travel into the United States may prevent a potential or ongoing pandemic, and will continue to do so if I am confirmed as Director of USCIS.

2. During your time as Chief Counsel for USCIS, you were involved in decisions to create broad parole programs which went beyond the text of the INA. What was your specific involvement in developing broad-based parole programs, and what do you believe is the proper scope of the President's parole authority?

It is my understanding of the law that the parole authority granted to the Secretary of Homeland Security by Congress is broad. It gives the Secretary discretion with regard to which criteria he may use to determine on a case-by-case basis what constitutes "urgent humanitarian reasons" or a "significant public benefit." Under all USCIS parole programs, applicants for parole must submit a form, supported by evidence, and an adjudicator must individually determine on a case-by-case basis whether that applicant satisfies the urgent humanitarian reason or significant public benefit and merits a favorable exercise of discretion. As Chief Counsel of USCIS, my role was to lead the office of attorneys that provides legal advice to all parts of USCIS, including attorneys who provide legal advice to agency employees who draft new policies. If confirmed, I

will seek briefings from USCIS experts to ensure that my understanding of the applicable law, policy, and administration of parole are up to date, and I commit to ensuring that USCIS continues to comply with all legal requirements.

3. As Chief Counsel, you were also involved with providing legal guidance on issues such as DACA. Do you think that DACA was an appropriate use of executive authority? Should future Presidents be allowed to similarly create quasi-status on stretched reading of the INA? Would you support changes to the INA which would limit executive authority to make such broad based designations in the future?

Though the decision to initiate DACA was made in 2012 prior to my tenure, I agree that DACA is a permissible exercise of discretion by the Secretary of Homeland Security. Without detailed information about future proposals, I cannot opine as to whether a specific use of discretion would be lawful. Broadly speaking, if confirmed, I would be happy to review any legislative proposals by Congress relating to USCIS, and provide timely technical assistance. If confirmed, I would seek briefings from USCIS experts to ensure that my understanding of the applicable law and policy on DACA is up to date, and I commit to ensuring that USCIS continues to comply with all legal requirements.

4. Do you believe the DAPA program was a lawful exercise of authority by President Obama? Does any President have the right to unilaterally waive immigration law and grant work permits to illegal immigrants?

As you know, the Department of Justice's Office of Legal Counsel was consulted on DAPA in 2014 and determined that DAPA would be a "permissible exercise of DHS's discretion to enforce the immigration laws." However, the Fifth Circuit Court of Appeals disagreed, DAPA was enjoined, and the Department of Homeland Security and USCIS, of which I then served as Chief Counsel, complied with the decision of the court. If confirmed, I would work with the many excellent attorneys at USCIS and in the DHS headquarters Office of the General Counsel to ensure USCIS continues to comply with all legal requirements.

5. Should illegal immigrants who have committed additional crimes since arrive in the United States be categorically denied citizenship under any immigration proposals Congress is currently considering?

To address this question, I would need to review specific legislative text and discuss it with experts in this area of immigration law before I could provide an informed view. If confirmed, I would welcome the opportunity to provide technical assistance on immigration proposals being considered by Congress.

6. What are your views on asylum reform? Do you support raising the credible fear standard? If not, why not?

If confirmed as Director of USCIS, my duty on asylum would be to ensure that under the law USCIS adjudicates in a fair, efficient, and humane manner claims of credible fear, asylum applications, and any case sent to USCIS from Customs and Border Protection for non-refoulement screening under the Title 42 order. If confirmed, I would seek briefings from agency experts to understand the issues that may limit USCIS's ability to adjudicate in a fair, efficient, and humane manner, and would welcome the opportunity to work with Congress to address these limitations.

7. Do you believe that economic migrants are entitled to asylum protections?

The United States has a responsibility to live up to its obligations under the law, and to expeditiously deny claims from those who are ineligible for asylum, while expeditiously approving claims by those applicants who are eligible. Under section 208(b)(1)(8) of the Immigration and Nationality Act (INA), asylum applicants must "establish that race, religion, nationality, membership in a particular social group, or political opinion was or will be at least one central reason for persecuting the applicant." Some granted asylum may also be fleeing untenable economic conditions, but this condition alone does not qualify them for asylum protections under the INA. If confirmed, my duty as USCIS Director would be to ensure USCIS administers its adjudication responsibilities under the law, including for those applying for asylum protection.

8. Do you support expedited removal for gang members, felons, sex offenders, and other violent criminal immigrants? If not, why not?

If confirmed as USCIS Director, I will have no role in removal decisions. The Secretary, in his or her “sole and unreviewable discretion,” may designate certain noncitizens to whom the expedited removal provisions may be applied.

9. Do you believe the temporary protected status program has been abused? Should temporary protected status be used as a back door way to provide semi-permanent lawful status to illegal immigrants?

The most durable solution to providing certainty to TPS recipients would be for Congress to enact legislation. With that said, historically, administrations of both parties have granted and extended TPS protections, under the law, to those unable to return to their countries for a limited number of reasons under the law, including because of devastation by natural disasters. As USCIS Director, my role with regard to TPS would be to advise the Secretary of Homeland Security on whether to grant, extend, or terminate TPS to certain populations under the law, and to ensure USCIS administers TPS programs in an efficient, fair, and humane manner. In conducting these duties, if confirmed, I commit to complying with the provisions in the Immigration and Nationality Act that govern TPS to the best of my ability.

10. Do you support reforms to the refugee resettlement program to give Congress greater oversight over the number of refugees admitted annually? Do you believe we should increase national security screenings and vetting measures for refugees?

To ensure the integrity of all our immigration programs, and U.S. national security and public safety, effective and robust security vetting procedures are of paramount importance. I fully support the ongoing review and improvement of these protocols, including those required for refugee applicants, to ensure that screening requirements are as effective as possible in detecting national security concerns and fraud. If confirmed, I

would welcome the opportunity to work with Congress to provide technical assistance on new legislation regarding the U.S. refugee program.