

seventeen questions to which the government objects, the court will modify the proposed questionnaire as follows.

Proposed Question # 5: *Please list any social, community, or professional organizations or groups with which you have been involved during the last 10 years. Additionally, please briefly describe your role in the organization.*

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *United States v. Robinson*, 475 F.2d 376, 381 (D.C. Cir. 1973).

Proposed Question # 7: *Have you ever had a sticker on your vehicle or a sign or flag on your property? If so, please describe the words and/or images on it.*

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *Id.* See also *Connors v. United States*, 158 U.S. 408, 414 (1895) (“The law assumes that every citizen is equally interested in the enforcement of the statute enacted to guard the integrity of national elections, and that his political opinions or affiliations will not stand in the way of an honest discharge of his duty as a juror in cases arising under that statute.”).

Proposed Question # 10: *Outside of news sources, what web sites do you visit most often? Please be specific.*

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *Robinson*, 475 F.2d at 381. Moreover, to the extent this question is pertinent, it is duplicative of Question #9, which examines prospective jurors’ use of social media, and which will be included in the questionnaire.

Proposed Question # 11: *What are the most frequently used apps on your smart phone? Please do not include preinstalled apps, such as the calculator or web browser.*

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *Id.* Moreover, Defense counsel does not object to removing this question from the questionnaire if permitted to ask questions about smart phone applications during voir dire. Defense counsel will be permitted to do so.

Proposed Question # 12: *What magazines and periodicals do you read?*

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *Robinson*, 475 F.2d at 381. However, the court will include a tailored version of this question:

What news magazines and news periodicals do you read?

Proposed Question # 16: *What are your general impressions of the people who gathered in Washington, D.C. on Jan. 6 in support of then-President Trump?*

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *Robinson*, 475 F.2d at 381. *See also Irvin v. Dowd*, 366 U.S. 717, 722–23 (1961) (explaining that educated jurors often will have “formed some impression or opinion as to the merits of [a] case” that is publicly reported, yet such impressions are not disqualifying so long as the juror “can lay aside his impression or opinion and render a verdict based on the evidence presented in court”). The court will include a tailored version of this question:

Do you have strong feelings—either positive or negative—about the individuals who gathered at the U.S. Capitol on January 6, 2021, in support of then-President Trump, that would prevent you from being a fair and impartial juror in a case involving one such individual?

Proposed Question # 17: *What are your general impressions of the people at the Capitol on Jan. 6 in support of then-President Trump? Do you believe that all of them shared similar intentions?*
 YES NO

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *Robinson*, 475 F.2d at 381. *See also Irvin*, 366 U.S. at 722–23. Moreover, to the extent this question is pertinent, it is duplicative of Question # 16 as modified.

Proposed Question # 18: *Do you believe that all people present at the Capitol on January 6 in support of then-President Trump should have been charged with criminal offenses?* YES NO

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *Robinson*, 475 F.2d at 381. *See also Irvin*, 366 U.S. at 722–23. Moreover, to the extent this question is pertinent, it is duplicative of Question # 16 as modified.

Proposed Question # 19: *What is your general impression of those charged with offenses stemming from or relating to the January 6 events at the Capitol?*

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *Robinson*, 475 F.2d at 381. *See also Irvin*, 366 U.S. at 722–23. Moreover, to the extent this question is pertinent, it is duplicative of Question # 16 as modified.

Proposed Question # 20: *Do you believe that those charged with offenses stemming from or relating to the January 6 events at the Capitol are likely guilty of the charges against them, or likely not guilty of the charges against them? Check all that apply, and please add what leads you to that conclusion.*

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *Robinson*, 475 F.2d

at 381. A prospective juror is not disqualified simply because they have “formed some impression or opinion as to the merits of the case.” *Irvin*, 366 U.S. at 722. Instead, it “is sufficient if the juror can lay aside his impression or opinion and render a verdict based on the evidence presented in court.” *Id.* at 723.

Proposed Question # 21: *Would you use any of the following words to describe the actions of people who entered the Capitol on January 6 protest? Please check all that apply.*

- *Defending Freedom*
- *Insurrection*
- *Patriotism*
- *Protest that went too far*
- *Trying to overthrow the US government*
- *Trying to overturn the election and keep Donald Trump in power*
- *Invited to the Capitol by then-President Trump*
- *Misled by then-President Trump*

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *Robinson*, 475 F.2d at 381. *See also Irvin*, 366 U.S. at 722–23.

Proposed Question # 22: *Do you have a general impression of law enforcement, such as Metropolitan Police Department or the U.S. Capitol Police? YES NO If so, please describe your impression, and where you get that impression from.*

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *Robinson*, 475 F.2d at 381. *See also Irvin*, 366 U.S. at 722–23. The court will include a tailored version of this question:

Do you have negative impressions of law enforcement, such as Metropolitan Police Department or the U.S. Capitol Police, that would make it difficult for you to be an impartial juror in a case involving testimony from those officers? YES NO If so, please describe your impression, and where you get that impression from.

Proposed Question # 23: *Have you, or someone close to you, ever had a strong interaction, either positive or negative, with law enforcement? YES NO If so, please describe.*

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *Robinson*, 475 F.2d at 381. *See also Irvin*, 366 U.S. at 722–23. The court will include a tailored version of this question:

Have you, or someone close to you, ever had a strong interaction, either positive or negative, with law enforcement that would make it difficult for you to be fair and impartial in a criminal case? YES NO If so, please describe.

Proposed Question # 24: *Do you have a general impression of how the prosecutors have been handling cases arising from the January 6 protest? YES NO If so, please describe your impression, and where you get that impression from.*

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *Robinson*, 475 F.2d at 381. *See also Irvin*, 366 U.S. at 722–23. The court will include a tailored version of this question:

Do you have any impressions or feelings, positive or negative, about how the Department of Justice has been handling the cases arising from the January 6 protest that would make it hard for you to be an impartial juror? YES NO If so, please describe your impression, and where you get that impression from.

Proposed Question # 25: *Do you have a general impression of lawyers defending the people charged with crimes arising from the January 6 events at the Capitol? YES NO If so, please describe your impression, and where you get that impression from.*

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *Robinson*, 475 F.2d at 381. *See also Irvin*, 366 U.S. at 722–23. The court will include a tailored version of this question:

Do you have any impressions or feelings, positive or negative, toward lawyers defending the people charged with crimes arising from the January 6 events at the Capitol that would make it hard for you to be an impartial juror? YES NO If so, please describe your impression, and where you get that impression from.

Proposed Question # 31: *Do you believe that individuals involved with the Jan. 6 incident at the Capitol have been treated differently than individuals involved with other events, such as Black Lives Matter protests in 2020? YES NO Why, or why not?*

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *Robinson*, 475 F.2d at 381. *See also Irvin*, 366 U.S. at 722–23.

Proposed Question # 37: *In the past 10 years, have you followed any court cases with interest? If so, what cases were they, and what interested you about those cases?*

The court will not include this question in the questionnaire because as worded it is not “reasonably calculated to discover an actual and likely source of prejudice.” *Robinson*, 475 F.2d at 381.

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A final copy of the juror questionnaire, with the above modifications, is attached herein. The court previously indicated that it would provide the questionnaire to the jury selection office for dissemination by mail to prospective jurors, and that on or before September 14, 2022, the parties would receive a copy of the juror questionnaire responses. ECF No. 48. That procedure, however, would require the court to convene a special jury panel, which is not required in this case. Accordingly, rather than disseminate the questionnaire to prospective jurors by mail, as previously envisioned, the court will provide the questionnaire to prospective jurors in person on September 27,

2022. The parties will have the opportunity to review the prospective jurors' responses before individual voir dire commences on September 28, 2022.

Date: June 28, 2022

Tanya S. Chutkan

TANYA S. CHUTKAN
United States District Judge