

**Nomination of Stanley Blumenfeld, Jr. to the United States District Court for the
Central District of California
Questions for the Record
Submitted November 20, 2019**

QUESTIONS FROM SENATOR FEINSTEIN

1. Please respond with your views on the proper application of precedent by judges.

a. When, if ever, is it appropriate for lower courts to depart from Supreme Court precedent?

Never.

b. Do you believe it is proper for a district court judge to question Supreme Court precedent in a concurring opinion? What about a dissent?

A district court judge has a clear obligation to follow precedent established by the U.S. Supreme Court and the circuit court in which he or she sits. While a district court judge may point out issues that arise out of precedent (which may assist in the development of the law), the judge should do so in a way that leaves no doubt that the judge has followed – and is fully committed to following – the law as reflected in binding precedent.

c. When, in your view, is it appropriate for a district court to overturn its own precedent?

A district court’s decision has no binding force as precedent. *Camreta v. Greene* (2011) 563 U.S. 692, 709 n.7. Its authority is limited to the law of the case, subject to reconsideration under applicable federal rules (see, e.g., Fed. R. Civ. P. 59 & 60), and its power to persuade in other cases.

d. When, in your view, is it appropriate for the Supreme Court to overturn its own precedent?

As the Supreme Court has recognized, the principle of stare decisis is a fundamental doctrine in American jurisprudence because it “promotes the evenhanded, predictable, and consistent development of legal principles” (*Payne v. Tennessee*, 501 U.S. 808, 827 (1991)). When confronted with a challenge to its precedent, the Supreme Court has developed factors it considers in deciding whether to overturn it (see, e.g., *Montejo v. Louisiana*, 556 U.S. 778, 792-93 (2009)). It is up to the Supreme Court to carefully apply those factors consistent with its stated respect for the principle of stare decisis. *Gamble v. United States*, 139 S. Ct. 1960, 1969 (2019).

2. When Chief Justice Roberts was before the Committee for his nomination, Senator Specter referred to the history and precedent of *Roe v. Wade* as “super-stare decisis.” A text book

on the law of judicial precedent, co-authored by Justice Neil Gorsuch, refers to *Roe v. Wade* as a “super-precedent” because it has survived more than three dozen attempts to overturn it. (The Law of Judicial Precedent, Thomas West, p. 802 (2016).) The book explains that “superprecedent” is “precedent that defines the law and its requirements so effectively that it prevents divergent holdings in later legal decisions on similar facts or induces disputants to settle their claims without litigation.” (The Law of Judicial Precedent, Thomas West, p. 802 (2016))

a. Do you agree that *Roe v. Wade* is “super-stare decisis”? Do you agree it is “superprecedent”?

Roe v. Wade is binding Supreme Court authority, and the holding in that case has been repeatedly reaffirmed. If confirmed, I would be duty bound to follow this precedent and would faithfully do so.

b. Is it settled law?

Yes. As noted, the Supreme Court has decided the case and reaffirmed its holding, requiring all inferior courts to faithfully follow it.

3. In *Obergefell v. Hodges*, the Supreme Court held that the Constitution guarantees same-sex couples the right to marry. **Is the holding in *Obergefell* settled law?**

Yes, *Obergefell* is the law of the land as decided by the U.S. Supreme Court, requiring all inferior courts to faithfully follow it.

4. In Justice Stevens’s dissent in *District of Columbia v. Heller* he wrote: “The Second Amendment was adopted to protect the right of the people of each of the several States to maintain a well-regulated militia. It was a response to concerns raised during the ratification of the Constitution that the power of Congress to disarm the state militias and create a national standing army posed an intolerable threat to the sovereignty of the several States. Neither the text of the Amendment nor the arguments advanced by its proponents evidenced the slightest interest in limiting any legislature’s authority to regulate private civilian uses of firearms.”

a. Do you agree with Justice Stevens? Why or why not?

As a sitting trial judge, I am required to follow precedent of the U.S. Supreme Court, irrespective of my views about the correctness of the precedent. As a California judge, I must be careful not to publicly comment on “issues that are likely to come before the courts” or that could appear to be “inconsistent with the impartial performance of the adjudicative duties of the judicial office.” California Code of Judicial Ethics, Canon 2(A); see also California Code of Judicial Ethics, Canon 4(A); *cf.* Code of Conduct for U.S. Judges, Canon. 3(A)(6). If confirmed, I would apply all Supreme Court precedent as required, including *Heller*.

b. Did *Heller* leave room for common-sense gun regulation?

In *Heller*, the Supreme Court recognized that “[l]ike most rights, the right secured by the Second Amendment is not unlimited.” *District of Columbia v. Heller*, 554 U.S. 570, 626 (2008). The Court went on to provide examples of limitations on the right that would be unaffected by its holding, including “longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms.” *Id.* at 626-27. I am unable to go beyond these specified limitations out of concern that other forms of gun regulation may come before the courts.

c. Did *Heller*, in finding an individual right to bear arms, depart from decades of Supreme Court precedent?

As a sitting state court judge and federal judicial nominee, I must be careful about publicly expressing my personal view of the correctness of binding authority, particularly when an expression about the core holding of a decision might give the wrong impression about my commitment to following the law. As a trial judge, I am committed to faithfully following all binding authority irrespective of my personal views.

5. In *Citizens United v. FEC*, the Supreme Court held that corporations have free speech rights under the First Amendment and that any attempt to limit corporations’ independent political expenditures is unconstitutional. This decision opened the floodgates to unprecedented sums of dark money in the political process.

a. Do you believe that corporations have First Amendment rights that are equal to individuals’ First Amendment rights?

In *Citizens United v. FEC*, 558 U.S. 310, 342 (2010), the Supreme Court “recognized that First Amendment protection extends to corporations.” As a trial judge, I am required to follow all binding authority, without regard to my personal beliefs, and I would continue to do so if confirmed as a nominee to serve on the district court.

b. Do individuals have a First Amendment interest in not having their individual speech drowned out by wealthy corporations?

As a sitting state court judge and district court nominee, I must be careful not to express my personal views “with respect to cases, controversies, or issues that are likely to come before the courts or that are inconsistent with the impartial performance of the adjudicative duties of the office.” California Code of Judicial Ethics, Canons 2(A) & 4(A); *see also* Code of Conduct for U.S. Judges, Canon. 3(A)(6). If confirmed, I would apply all Supreme Court precedent, including First Amendment precedent.

c. Do you believe corporations also have a right to freedom of religion under the First Amendment?

The Supreme Court held in *Burwell v. Hobby Lobby Stores*, 573 U.S. 682, 713 (2014) that “a for-profit corporation has free-exercise rights” protected by the Religious Freedom Restoration Act. In light of its statutory holding, the Court did not reach (and thus left open) the related First Amendment issue. As a sitting state judge and judicial nominee for the district court, I am unable to comment on a legal matter that may come before the courts. If faced with this issue, I would apply all applicable precedent.

6. Does the Equal Protection Clause of the Fourteenth Amendment place any limits on the free exercise of religion?

The Supreme Court has recognized the importance of protecting both the right to equal protection and the right to the free exercise of religion. If presented with a case in which those two important rights collided, I would have to analyze the specific facts of the case and would apply the applicable legal principles articulated by the Supreme Court in resolving the conflict. I am otherwise unable to express an opinion that is informed and consistent with my ethical responsibilities.

7. Would it violate the Equal Protection Clause of the Fourteenth Amendment if a county clerk refused to provide a marriage license for an interracial couple if interracial marriage violated the clerk’s sincerely held religious beliefs?

If faced with this issue, I would consider all applicable legal precedent, including the principles set forth in *Loving v. Virginia*, 388 U.S. 1, 12 (1967) and those set forth in other relevant Supreme Court opinions addressing the Equal Protection and Free Exercise Clauses. See also my answer to Question 6.

8. Could a florist refuse to provide services for an interracial wedding if interracial marriage violated the florist’s sincerely held religious beliefs?

Please see my answer to Questions 6 and 7.

9. Have you had any contact with anyone at the Federalist Society about your possible nomination to any federal court? If so, please identify when, who was involved, and what was discussed.

No.

10. On February 22, 2018, when speaking to the Conservative Political Action Conference (CPAC), former White House Counsel Don McGahn told the audience about the Administration’s interview process for judicial nominees. He said: “On the judicial piece ... one of the things we interview on is their views on administrative law. And what you’re seeing is the President nominating a number of people who have some experience,

if not expertise, in dealing with the government, particularly the regulatory apparatus. This is different than judicial selection in past years...”

- a. Did anyone in this Administration, including at the White House or the Department of Justice, ever ask you about your views on any issue related to administrative law, including your “views on administrative law”? If so, by whom, what was asked, and what was your response?**

To the best of my recollection, no.

- b. Since 2016, has anyone with or affiliated with the Federalist Society, the Heritage Foundation, or any other group, asked you about your views on any issue related to administrative law, including your “views on administrative law”? If so, by whom, what was asked, and what was your response?**

No.

- c. What are your “views on administrative law”?**

I generally have not presided over issues involving administrative law as a state trial judge. The last time I recall applying administrative law was while working at the U.S. Attorney’s office twenty-six years ago. I have not developed any views that would impede my ability to faithfully apply Supreme Court (or any other controlling) law in this area, including *Chevron v. Natural Resources Def. Council*, 467 U.S. 837 (1984) and *Kisor v. Wilkie*, 139 S. Ct. 2400 (2019).

11. Do you believe that human activity is contributing to or causing climate change?

As a sitting state judge and a district court nominee, it is inappropriate for me to comment on this political issue. See, e.g., California Code of Judicial Ethics, Canons 2(A) & 5; Code of Conduct for U.S. Judges, Canon. 3(A)(6).

12. When is it appropriate for judges to consider legislative history in construing a statute?

As a California trial judge, I rely on legislative history as required, and within the limits established, by binding California appellate authority. If confirmed as a district court judge, I would follow the same approach, looking to the Ninth Circuit and the Supreme Court for guidance.

13. At any point during the process that led to your nomination, did you have any discussions with anyone — including, but not limited to, individuals at the White House, at the Justice Department, or any outside groups — about loyalty to President Trump? If so, please elaborate.

No.

14. Please describe with particularity the process by which you answered these questions.

I prepared a draft response to all the questions I received on November 20, 2019. I provided the draft to the Office of Legal Policy within the Department of Justice and received feedback. I considered the feedback and made minor language edits I thought appropriate. I submitted the revised draft to the Office of Legal Policy for final submission.

**Questions for the Record for Stanley Blumenfeld
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?

No.

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

No.

2. Prior nominees before the Committee have spoken about the importance of training to help judges identify their implicit biases.

a. Do you agree that training on implicit bias is important for judges to have?

Yes. A judge must decide cases without actual or implicit bias or prejudice. Training on this fundamental obligation is important.

b. Have you ever taken such training?

Yes. The issue of implicit bias has been a recurrent topic of training I have taken since becoming a judge on the Los Angeles Superior Court.

c. If confirmed, do you commit to taking training on implicit bias?

In my view, it is important for a judge to be self-aware so as to avoid implicit bias. I am committed to continuing to take training on this subject throughout my judicial career.

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United States District Court for the Central District of California
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QUESTIONS FROM SENATOR BOOKER

1. Do you consider yourself an originalist? If so, what do you understand originalism to mean?

Originalism is a theory of constitutional analysis that focuses on the original public meaning of the text at the time of adoption. The Supreme Court has followed this interpretive approach in some but not all cases. As a sitting trial judge, I am professionally required to apply – and I am philosophically committed to faithfully following – the interpretive approach taken by the Supreme Court, whether that approach is originalism or otherwise. My obligation and commitment would be the same if I were confirmed to serve on the district court.

2. Do you consider yourself a textualist? If so, what do you understand textualism to mean?

Though similar to originalism, textualism typically refers to a method of statutory rather than constitutional interpretation. Under the theory of textualism, a court applies the plain meaning of the language when enacted, resorting as necessary to statutory context, structure, and canons of interpretation. As a sitting trial judge, I am professionally required to apply – and I am philosophically committed to faithfully following – the interpretive method adopted by the Supreme Court (and other controlling appellate authority), including the approach to textual interpretation. My obligation and commitment would be the same if I were confirmed to serve on the district court.

3. Legislative history refers to the record Congress produces during the process of passing a bill into law, such as detailed reports by congressional committees about a pending bill or statements by key congressional leaders while a law was being drafted. The basic idea is that by consulting these documents, a judge can get a clearer view about Congress's intent. Most federal judges are willing to consider legislative history in analyzing a statute, and the Supreme Court continues to cite legislative history.

- a. If you are confirmed to serve on the federal bench, would you be willing to consult and cite legislative history?

I would do so to the extent required by, and consistent with, controlling appellate authority.

- b. If you are confirmed to serve on the federal bench, your opinions would be subject to review by the Supreme Court. Most Supreme Court Justices are willing to consider legislative history. Isn't it reasonable for you, as a lower-court judge, to evaluate any relevant arguments about legislative history in a case that comes before you?

Please see my answer to Question 3(a).

4. Since the Supreme Court’s *Shelby County* decision in 2013, states across the country have adopted restrictive voting laws that make it harder for people to vote. From stringent voter ID laws to voter roll purges to the elimination of early voting, these laws disproportionately disenfranchise people in poor and minority communities. These laws are often passed under the guise of addressing purported widespread voter fraud. Study after study has demonstrated, however, that widespread voter fraud is a myth.¹ In fact, in-person voter fraud is so exceptionally rare that an American is more likely to be struck by lightning than to impersonate someone at the polls.²

a. Do you believe that in-person voter fraud is a widespread problem in American elections?

As a sitting state court judge, I am required to refrain from public comment when doing so could be construed as committing myself to a view “with respect to cases, controversies, or issues that are likely to come before the courts or that are inconsistent with the impartial performance of the adjudicative duties of judicial office.” California Code of Judicial Ethics, Canons 2(A); *see also* Canons 4(A) & 5; *cf.* Code of Conduct for U.S. Judges, Canon. 3(A)(6). I am therefore unable to comment.

b. In your assessment, do restrictive voter ID laws suppress the vote in poor and minority communities?

Please see my answer to Question 4(a).

c. Do you agree with the statement that voter ID laws are the twenty-first-century equivalent of poll taxes?

Please see my answer to Question 4(a).

¹ *Debunking the Voter Fraud Myth*, BRENNAN CTR. FOR JUSTICE (Jan. 31, 2017), <https://www.brennancenter.org/analysis/debunking-voter-fraud-myth>.

² *Id.*

5. According to a Brookings Institution study, African Americans and whites use drugs at similar rates, yet blacks are 3.6 times more likely to be arrested for selling drugs and 2.5 times more likely to be arrested for possessing drugs than their white peers.³ Notably, the same study found that whites are actually *more likely* than blacks to sell drugs.⁴ These shocking statistics are reflected in our nation's prisons and jails. Blacks are five times more likely than whites to be incarcerated in state prisons.⁵ In my home state of New Jersey, the disparity between blacks and whites in the state prison systems is greater than 10 to 1.⁶

a. Do you believe there is implicit racial bias in our criminal justice system?

Yes, implicit racial bias exists throughout society, including in our criminal justice system.

b. Do you believe people of color are disproportionately represented in our nation's jails and prisons?

It is my understanding that this is statistically true.

c. Prior to your nomination, have you ever studied the issue of implicit racial bias in our criminal justice system? Please list what books, articles, or reports you have reviewed on this topic.

The issue of implicit bias has been a recurrent topic of training that I have taken since becoming a judge on the Los Angeles Superior Court. However, the training has focused on implicit bias in decision making generally, rather than in the criminal justice system specifically.

d. According to a report by the United States Sentencing Commission, black men who commit the same crimes as white men receive federal prison sentences that are an average of 19.1 percent longer.⁷ Why do you think that is the case?

Any disparity in our criminal justice system based on race is troubling. As a state trial judge, I have not had the opportunity to study the data and other relevant evidence to render an opinion on the cause of any sentencing disparities in federal court.

e. According to an academic study, black men are 75 percent more likely than similarly situated white men to be charged with federal offenses that carry harsh mandatory minimum sentences.⁸ Why do you think that is the case?

Any disparity in our criminal justice system based on race is troubling. As a state trial judge, I have not had the opportunity to study the data and other relevant evidence to render an opinion on the cause of any charging disparities by federal prosecutors.

f. What role do you think federal judges, who review difficult, complex criminal cases, can play in addressing implicit racial bias in our criminal justice system?

A judge has a fundamental duty to ensure that everyone is treated fairly and equally

under the law. As such, racial bias in the courtroom is unacceptable and must not be tolerated. A judge must not only promptly correct racial bias exhibited by the parties (e.g., the improper exercise of a peremptory strike) or other courtroom participants, but also must be vigilant about his or her own implicit bias to avoid acting upon it.

6. According to a Pew Charitable Trusts fact sheet, in the 10 states with the largest declines in their incarceration rates, crime fell by an average of 14.4 percent.⁹ In the 10 states that saw the largest increase in their incarceration rates, crime decreased by an average of 8.1 percent.¹⁰

³ Jonathan Rothwell, *How the War on Drugs Damages Black Social Mobility*, BROOKINGS INST. (Sept. 30, 2014), <https://www.brookings.edu/blog/social-mobility-memos/2014/09/30/how-the-war-on-drugs-damages-black-social-mobility>.

⁴ *Id.*

⁵ Ashley Nellis, *The Color of Justice: Racial and Ethnic Disparity in State Prisons*, SENTENCING PROJECT (June 14, 2016), <http://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons>.

⁶ *Id.*

⁷ U.S. SENTENCING COMM'N, DEMOGRAPHIC DIFFERENCES IN SENTENCING: AN UPDATE TO THE 2012 *BOOKER* REPORT 2 (Nov. 2017), https://www.usc.gov/sites/default/files/pdf/research-and-publications/research-publications/2017/20171114_Demographics.pdf.

⁸ Sonja B. Starr & M. Marit Rehani, *Racial Disparity in Federal Criminal Sentences*, 122 J. POL. ECON. 1320, 1323 (2014).

⁹ Fact Sheet, *National Imprisonment and Crime Rates Continue To Fall*, PEW CHARITABLE TRUSTS (Dec. 29, 2016), <http://www.pewtrusts.org/en/research-and-analysis/fact-sheets/2016/12/national-imprisonment-and-crime-rates-continue-to-fall>.

¹⁰ *Id.*

- a. Do you believe there is a direct link between increases in a state's incarcerated population and decreased crime rates in that state? If you believe there is a direct link, please explain your views.

As a state trial judge, I have not had the opportunity to study the relevant evidence to render an informed opinion on the correlation, if any, between incarceration and crime rates.

- b. Do you believe there is a direct link between decreases in a state's incarcerated population and decreased crime rates in that state? If you do not believe there is a direct link, please explain your views.

Please see my response to Question 6(a).

7. Do you believe it is an important goal for there to be demographic diversity in the judicial branch? If not, please explain your views.

Yes.

8. Would you honor the request of a plaintiff, defendant, or witness in a case before you who is transgender to be referred to in accordance with that person's gender identity?

Yes.

9. Do you believe that *Brown v. Board of Education*¹¹ was correctly decided? If you cannot give a direct answer, please explain why and provide at least one supportive citation.

Yes. *Brown v. Board of Education* is a landmark decision that holds a unique place in American jurisprudence in correcting the grave injustice of racial segregation sanctioned in *Plessy v. Ferguson*.

10. Do you believe that *Plessy v. Ferguson*¹² was correctly decided? If you cannot give a direct answer, please explain why and provide at least one supportive citation.

No. Please see my answer to Question 9.

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

No. In my discussions with the Department of Justice, it was made clear that I would have to decide how to respond to any such questions.

12. As a candidate in 2016, President Trump said that U.S. District Judge Gonzalo Curiel, who was born in Indiana to parents who had immigrated from Mexico, had "an absolute conflict" in presiding over civil fraud lawsuits against Trump University because he was "of Mexican heritage."¹³ Do you agree with President Trump's view that a judge's race or ethnicity can

be a basis for recusal or disqualification?

A judge must consider in each case whether recusal is required under applicable legal standards, including the codes of judicial conduct. Beyond stating this general principle, I am unable to comment on statements that are the subject of political controversy. See California Code of Judicial Ethics, Canons 2(A), 4(A) & 5; cf. Code of Conduct for U.S. Judges, Canons 2(A), 3(A)(6) & 5.

13. President Trump has stated on Twitter: “We cannot allow all of these people to invade our Country. When somebody comes in, we must immediately, with no Judges or Court Cases, bring them back from where they came.”¹⁴ Do you believe that immigrants, regardless of status, are entitled to due process and fair adjudication of their claims?

I am unable to comment on the President’s statement for the reasons given in my answer to Question 12. As to the question about the legal principle, the U.S. Supreme Court has held that “the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). I would follow this legal principle if confirmed.

¹¹ 347 U.S. 483 (1954).

¹² 163 U.S. 537 (1896).

¹³ Brent Kendall, *Trump Says Judge’s Mexican Heritage Presents ‘Absolute Conflict,’* WALL ST. J. (June 3, 2016), <https://www.wsj.com/articles/donald-trump-keeps-up-attacks-on-judge-gonzalo-curiel-1464911442>.

¹⁴ Donald J. Trump (@realDonaldTrump), TWITTER (June 24, 2018, 8:02 A.M.), <https://twitter.com/realDonaldTrump/status/1010900865602019329>.

Questions for the Record from Senator Kamala D. Harris
Submitted November 20, 2019
For the Nomination of

Stanley Blumenfeld, to the U.S. District Court for the Central District of California

1. District court judges have great discretion when it comes to sentencing defendants. It is important that we understand your views on sentencing, with the appreciation that each case would be evaluated on its specific facts and circumstances.

- a. **What is the process you would follow before you sentenced a defendant?**

Congress has articulated sentencing objectives and factors that must be considered. 18 U.S.C. § 3553. I would apply a disciplined approach that examines the mitigating, aggravating, and other statutory factors in each case to achieve the expressed objectives, including “the need to avoid unwarranted sentence disparities among defendants with similar records who have been found guilty of similar conduct.” *Id.* at § 3553(a)(6). In doing so, I would consider all applicable law, including the sentencing guidelines, and would review the presentence report and all oral and written submissions provided by, or on behalf of, the parties and victim(s).

- b. **As a new judge, how do you plan to determine what constitutes a fair and proportional sentence?**

Please see my answer to 1(a). In addition, I would regularly consult available sentencing data on convictions for comparable offenses.

- c. **When is it appropriate to depart from the Sentencing Guidelines?**

When the analysis described in my answer to 1(a) results in the conclusion that a departure is warranted under the facts and law of the particular case.

- d. Judge Danny Reeves of the Eastern District of Kentucky—who also serves on the U.S. Sentencing Commission—has stated that he believes mandatory minimum sentences are more likely to deter certain types of crime than discretionary or indeterminate sentencing.¹

- i. **Do you agree with Judge Reeves?**

The penological impact of particular mandatory minimum sentences is an important question that requires a careful study of reliable data before enactment by policy makers. As a sitting trial judge, I am not in a position to render a public opinion on the efficacy of mandatory minimum

¹ <https://www.judiciary.senate.gov/imo/media/doc/Reeves%20Responses%20to%20QFRs1.pdf>

sentences in deterring certain types of crime. When sentencing, I follow the policy choices made by the legislative branch as reflected in the law, including whether I am required to impose any particular sentence, in whole or in part. If confirmed, I would continue to do so as a district court judge.

ii. **Do you believe that mandatory minimum sentences have provided for a more equitable criminal justice system?**

Please see my answer to 1(d)(i).

iii. **Please identify instances where you thought a mandatory minimum sentence was unjustly applied to a defendant.**

Please see my answer to 1(d)(i).

iv. Former-Judge John Gleeson has criticized mandatory minimums in various opinions he has authored, and has taken proactive efforts to remedy unjust sentences that result from mandatory minimums.² **If confirmed, and you are required to impose an unjust and disproportionate sentence, would you commit to taking proactive efforts to address the injustice, including:**

1. **Describing the injustice in your opinions?**

I would consider taking all appropriate steps that are consistent with my judicial role and ethical obligations, including providing a description of the outcome in a particular case, so that the information is available for policy makers and other relevant authorities to consider.

2. **Reaching out to the U.S. Attorney and other federal prosecutors to discuss their charging policies?**

Please see my answer to 1(d)(iv)(1).

3. **Reaching out to the U.S. Attorney and other federal prosecutors to discuss considerations of clemency?**

Please see my answer to 1(d)(iv)(1).

e. 28 U.S.C. Section 994(j) directs that alternatives to incarceration are “generally appropriate for first offenders not convicted of a violent or otherwise serious

² See, e.g., “Citing Fairness, U.S. Judge Acts to Undo a Sentence He Was Forced to Impose,” NY Times, July 28, 2014, <https://www.nytimes.com/2014/07/29/nyregion/brooklyn-judge-acts-to-undo-long-sentence-for-francois-holloway-he-had-to-impose.html>

offense.” **If confirmed as a judge, would you commit to taking into account alternatives to incarceration?**

Yes. As a sitting trial judge, I regularly consider and impose alternatives to incarceration as authorized by law. I would continue to do so if confirmed as a district court judge.

2. Judges are one of the cornerstones of our justice system. If confirmed, you will be in a position to decide whether individuals receive fairness, justice, and due process.

a. **Does a judge have a role in ensuring that our justice system is a fair and equitable one?**

Yes, this is a solemn judicial obligation.

b. **Do you believe there are racial disparities in our criminal justice system? If so, please provide specific examples. If not, please explain why not.**

Yes, racial disparities exist throughout society, including in our criminal justice system. I do not have reliable data to be able to provide fact specific examples.

3. If confirmed as a federal judge, you will be in a position to hire staff and law clerks.

a. **Do you believe it is important to have a diverse staff and law clerks?**

Yes I do.

b. **Would you commit to executing a plan to ensure that qualified minorities and women are given serious consideration for positions of power and/or supervisory positions?**

Yes, if confirmed, I would be committed to doing so.