

**Questions for the Record from Senator Kamala D. Harris
Submitted January 12, 2018**

For the Nominations of:

Annemarie Carney Axon, to be United States District Judge for the Northern District of Alabama

R. Stan Baker, to be United States District Judge for the Southern District of Georgia

Jeffrey Uhlman Beaverstock, to be United States District Judge for the Southern District of Alabama

Liles Clifton Burke, to be United States District Judge for the Northern District of Alabama

Thomas Alvin Farr, to be United States District Judge for the Eastern District of North Carolina

Charles Barnes Goodwin, to be United States District Judge for the Western District of Oklahoma

Michael Joseph Juneau, to be United States District Judge for the Western District of Louisiana

Matthew J. Kacsmark, to be United States District Judge for the Northern District of Texas

Emily Coody Marks, to be United States District Judge for the Middle District of Alabama

Terry Fitzgerald Moor, to be United States District Judge for the Southern District of Alabama

Mark Saalfeld Norris, Sr., to be United States District Judge for the Western District of Tennessee

William M. Ray II, to be United States District Judge for the Northern District of Georgia

Eli Jeremy Richardson, to be United States District Judge for the Middle District of Tennessee

Holly Lou Teeter, to be United States District Judge for the District of Kansas

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?

In advance of sentencing a defendant, I will review the applicable law and binding precedent. As instructed and permitted by law, I will consider the charges and evidence submitted to the court; carefully read and review the presentence report; take testimony from the defendant and witnesses; and hear argument from both the prosecutors and defense attorneys. Finally, I will review the applicable Sentencing Guidelines and consider whether departures from the guidelines or alternatives to incarceration are appropriate under the circumstances.

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

Please see my response to Question 1(a).

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

The Sentencing Guidelines Manual sets forth circumstances under which a departure would be appropriate. A court should exercise its discretion to depart from the Guidelines after a review of the facts and circumstances of each case in order to ensure that the sentence imposed is “sufficient, but not greater than necessary, to comply with the purposes” of sentencing. 18 U.S.C. § 3553.

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?

I do not have the experience to offer an informed opinion on the matter.

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

Please see my response to Question 1(d)(i).

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

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

Please see my response to Question 1(d)(i).

- iv. Former-Judge John Gleeson has previously 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?**
- 2. Reaching out to the U.S. Attorney and other federal prosecutors to discuss their charging policies?**
- 3. Reaching out to the U.S. Attorney and other federal prosecutors to discuss considerations of clemency?**

If I am confirmed and find myself in a situation where I am required to impose an unjust and disproportionate sentence, I would do everything within the bounds of the law and the Code of Conduct to appropriately address the issue.

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

Yes, to the extent permitted by law.

- 2. Judges are one of the cornerstones of our justice system. If confirmed, you will be in a position to deciding 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 just one?**

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

I am aware of studies regarding the effect of sentencing guidelines for certain crimes that have had a disparate impact on certain races. I am also aware of media accounts regarding allegations of racial profiling, police brutality, and

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>

prosecutor misconduct. If I am fortunate to be confirmed, I will work hard to ensure that the constitutional rights of all criminal defendants who appear before me are protected and every defendant receives a fair trial regardless of their race.

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

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

I believe that diversity of thought, education, experience, and circumstance is important in any workplace.

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?

If I am fortunate enough to be confirmed, any qualified applicant for any position in my chambers will be given serious consideration regardless of race, religion, age, or gender.