

**Nomination of Ryan Holte to the
United States Court of Federal Claims
Questions for the Record
Submitted February 21, 2018**

QUESTIONS FROM SENATOR BOOKER

1. According to a Brookings Institute 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.¹ Notably, the same study found that whites are actually *more likely* to sell drugs than blacks.² 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.³ In my home state of New Jersey, the disparity between blacks and whites in the state prison systems is greater than 10 to 1.⁴

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

My general understanding is that numerous empirical studies have shown racial disparities and biases in the criminal justice system, however, as a judicial nominee it would be inappropriate for me to give the impression I have prejudged one particular study over another. I believe that, unfortunately, racial disparities and biases continue to exist in our society. If I am fortunate enough to be confirmed as a judge on the Court of Federal Claims, I am committed to doing whatever the law allows a Federal Claims judge to do in preventing illegal bias motivated by racism.

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

Please see my answer to Question 1.a. above.

- 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.

My academic research focuses on civil law issues primarily related to intellectual property law. I have not studied the criminal justice system, either academically or personally.

¹ JONATHAN ROTHWELL, HOW THE WAR ON DRUGS DAMAGES BLACK SOCIAL MOBILITY, BROOKINGS INSTITUTE (Sept. 30, 2014), available at <https://www.brookings.edu/blog/social-mobility-memos/2014/09/30/how-the-war-on-drugs-damages-black-social-mobility/>.

² *Id.*

³ ASHLEY NELLIS, PH.D., THE COLOR OF JUSTICE: RACIAL AND ETHNIC DISPARITY IN STATE PRISONS, THE SENTENCING PROJECT 14 (June 14, 2016), available at <http://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.

⁴ *Id.* at 8.

2. According to a Pew Charitable Trusts fact sheet, in the 10 states with the largest declines in their incarceration rates, crime fell an average of 14.4 percent.⁵ In the 10 states that saw the largest increase in their incarceration rates, crime decreased by an 8.1 percent average.⁶

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

My understanding is that many factors contribute to crime rates and incarceration. As a Federal Claims judicial nominee it would be inappropriate for me to give the impression I have prejudged one particular study over another.

- b. Do you believe there is a direct link between decreases of 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 answer to Question 2.a. above.

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

As a judicial nominee, it would be inappropriate for me to comment as to the qualifications that the political branches, namely the President or Senate, should consider in nominating and confirming judges. I note though, that I am the son of a Middle Eastern religious refugee and should I be fortunate enough to be confirmed as a judge on the Court of Federal Claims, I believe my background would contribute to demographic diversity within the judicial branch.

4. Please describe why you believe you are qualified to serve as a judge on the Court of Federal Claims even though you have not litigated a case before that court.

Please see my response above to Question 2. a-e. from Ranking Member Feinstein.

⁵ THE PEW CHARITABLE TRUSTS, NATIONAL IMPRISONMENT AND CRIME RATES CONTINUE TO FALL 1 (Dec. 2016), available at http://www.pewtrusts.org/~media/assets/2016/12/national_imprisonment_and_crime_rates_continue_to_fall_web.pdf.

⁶ *Id.*