

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 Moorer, to be United States District Judge for the Southern District of Alabama

Mark Saalfield 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?

I would act in compliance with all relevant statutes and precedent. In so doing, my process would include calculating the appropriate guidelines range, permitting both the prosecution and the defense to present evidence and arguments, determining whether any departures from the guidelines range are appropriate, and considering the relevant statutes and precedent. I would also consider the presentence report and any sentencing memoranda submitted to the court. I would hold a sentencing hearing during which a defendant would have the opportunity to be heard, and I would provide a thorough explanation for the particular sentence imposed.

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

See my response to Question 1(a).

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

Pursuant to 18 U.S.C. §3553(b), a criminal sentence should be “sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection.” Determining whether a departure from the Sentencing Guidelines may be appropriate in order to achieve this purpose requires a fact-intensive examination of a broad range of relevant factors, including those found in §3553 and those specific to an individual defendant.

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 have not studied the deterrent effect of mandatory minimum sentences to a degree sufficient to formulate an informed opinion on this issue.

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

See my response to Question 1(d)(i).

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

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

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 fortunate enough to be confirmed, and I become faced with a situation where I believed the law required imposition of an unjust and disproportionate sentence, I would consider all options legally available to me, which may include the three listed above.

- 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.

- 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.**

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>

I am aware of troubling reports of racial disparity in different components of the criminal justice system. If I am fortunate enough to be confirmed, I will work hard to ensure that all who appear before me are afforded due process and are treated fairly and with respect, without regard to race or any other immutable characteristic.

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 see tremendous value in hiring staff and law clerks with diverse backgrounds, education, experiences, strengths, and abilities.

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, I would give serious consideration to all qualified applicants for employment in my chambers, without regard to race, sex, or any other immutable characteristic.