

**Nomination of Maryellen Noreika to the
United States District Court for the District of Delaware
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?

I am aware of studies, such as the one cited, showing racial disparities in the criminal justice system. If confirmed, I will undertake whatever steps I can to ensure that everyone who comes into my courtroom is treated fairly and equally, without regard to race or other personal characteristics.

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

I have not studied the issue, but I have reviewed statistics, such as those presented in the Nellis article in footnote 3, that have been found to reveal disproportion for people of color in the state prison population when compared to the general population.

- 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.

Prior to my nomination, I had participated in implicit bias training that explored issues of implicit bias generally. I had not, however, studied implicit racial bias in the criminal justice system.

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.

I have not studied the issue, but I have reviewed statistics, such as those presented in Pew Charitable Trusts fact sheet cited, that suggest that there are factors other than incarceration rate that influence state crime rates.

- 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.

I have not studied the issue, but I have reviewed statistics, such as those presented in Pew Charitable Trusts fact sheet cited that suggest that there are factors other than incarceration rate that influence state crime rates.

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.

To the extent that this question is asking about judges, I cannot speak to what the goals should be of the President in nominating or the Senate in confirming judges. To the extent, it includes staff positions, I think it can be helpful to have people with a range of backgrounds, experiences and viewpoints. If confirmed, I would consider all qualified applicants for positions regardless of race, gender, orientation, age, national origin or religion.

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.*