

**Nomination of Kenneth Bell to the United States District Court for the
Western District of North Carolina
Questions for the Record
August 29, 2018**

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 an opinion?

In my view, it is generally not proper for a district court judge to question or criticize Supreme Court precedent.

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

A district court's opinions are not precedential. Nonetheless, if as a district court judge I was persuaded that a previous opinion rendered by me was erroneous I would not feel bound by my prior ruling.

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

The Supreme Court has set forth factors that it considers in determining whether to overturn its own precedent. The Supreme Court alone can overrule its own precedents. It would be improper for me as a district court nominee to say when Supreme Court precedent should be overturned.

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”?

Yes. All Supreme Court decisions are superprecedent to lower courts.

b. Is it settled law?

Yes.

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.

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 district court nominee it would be improper for me to opine on majority or dissenting opinions of Supreme Court Justices.

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

The Supreme Court in *Heller* recited a number of circumstances where regulation of the possession and sale of firearms is appropriate.

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

I have not studied Supreme Court Second Amendment opinions prior to *Heller*.

5. In 1995, you wrote a letter to the editor in the *Charlotte Observer* that criticized an article previously run in that newspaper that had defended women’s reproductive rights. You attacked what you called the “twofold indefensibility of the abortion rights position.”

First, responding to the argument that the decision whether to have an abortion is “a hard-enough decision,” you wrote: “Why is it a hard decision? Either the unborn is a mass of cells worthy of no more consideration than a hangnail, or it is a child, which may not be

killed. There is no middle ground. Only if the mother knows it is a child rather than a hangnail is abortion a ‘hard decision.’”

Second, you said that the article “misrepresents the intention of the pro-life cause. No one cares what the mother does with her body; the point is to protect the body, the life, of the baby.” (Letter to the Editor, *So why is abortion hard-enough decision?* CHARLOTTE OBSERVER (July 31, 1995))

a. What evidence do you have that a woman’s decision whether to have an abortion is not a difficult decision?

Respectfully, my letter to the editor in 1995 said no such thing. Indeed, my letter presumes and acknowledges that a woman’s decision whether to have an abortion is a difficult decision.

b. Is your position—that a fetus is either “a mass of cells worthy of no more consideration than a hangnail” or “a child”—consistent with Supreme Court precedent?

No, the Supreme Court has recognized a woman’s constitutional right to obtain an abortion. If confirmed, I would fully and faithfully apply that precedent, as well as all other binding Supreme Court and Fourth Circuit precedent.

c. Is your position—that no one should “care[] what the mother does with her body”—consistent with Supreme Court precedent?

Respectfully, this is an inaccurate characterization of my 1995 letter, which was discussing “the intention of the pro-life cause.” As stated in response to question 5(b), the Supreme Court has recognized a constitutional right to an abortion and I would fully and faithfully apply that precedent.

d. How is a law that limits women’s reproductive rights or women’s bodily autonomy not a law enacted to interfere with what a woman “does with her body”?

The Supreme Court has rendered many opinions regarding abortion rights. As a district court judge I would be bound by, and faithfully follow and apply, all Supreme Court precedents.

6. In 2016, you wrote an op-ed disagreeing with then-FBI Director Jim Comey’s decision not to charge Secretary Clinton, stating that you knew “an army of reasonable prosecutors who would have done [it], if they had been allowed.” You claimed in the article that “Clinton placed her compulsion for privacy and personal convenience above the security interests of the country,” and you claimed that Secretary Clinton’s use of “personal servers so as to keep government records inaccessible is an obstruction of justice.” (*A ‘reasonable’ case for charging Hillary Clinton*, CHARLOTTE OBSERVER (July 9, 2016))

a. What evidence do you have that Secretary Clinton “placed her compulsion for privacy and personal convenience above the security interests of the country”?

My 2016 opinion piece was written based upon nearly 18 years as a federal prosecutor, 10 of which I served as First Assistant United States Attorney under both Democrat and Republican appointed United States Attorneys, and 17 years as a defense attorney. It particularly criticized then FBI Director Comey for stating a prosecutorial decision, which in my view at the time should have been left to officials of the Department of Justice. In my view at the time, it would have equally been a usurpation of the Attorney General’s authority for Director Comey to state that “every reasonable prosecutor” would pursue an indictment.

My personal opinion expressed in the 2016 op-ed was based on general media reports about Secretary Clinton’s email practices while she was Secretary of State.

b. What evidence do you have that Secretary Clinton used “personal servers so as to keep government records inaccessible”?

My personal opinion expressed in the 2016 op-ed was based on general media reports that Secretary Clinton maintained unsecured personal servers for convenience, and that thousands of official emails were found on those servers

c. During your time as an Assistant United States Attorney, how many cases did you work on that involved allegations of mishandling classified information? Please provide the name and citation of each case, and the nature of your involvement in the case, including whether you served as chief counsel on the matter.

As an Assistant United States Attorney I did not work on any cases involving allegations of mishandling classified information. Both as an Assistant United States Attorney and as a defense attorney I have received very high security clearances and been given access to highly classified information. As part of those clearances I received security briefings regarding the appropriate handling of classified information and the criminal penalties for failing to handle classified information appropriately.

7. In 1999, you wrote a letter to the editor stating that it was a “myth, an often-invoked straw man, that the prisons are full of mere drugs users. . . . [Drug dealers] are not incarcerated for drug use or possession.” (*Column overstates penalty for crack cocaine use*, CHARLOTTE OBSERVER (Sept. 5, 1999))

a. On what basis did you conclude that it was a “myth” that “prisons are full of mere drug users”? Please provide evidence on which you relied in making this assertion.

My September 1999 letter to the editor was based upon my experience then of almost 15 years as a federal prosecutor. It stated that the editors “will be hard pressed to find prison inmates prosecuted in the Western District of North Carolina, or probably any other federal prosecutorial district, for mere possession of crack.” In my experience at that time, I was not aware of any federal prosecutions for simple possession of crack cocaine.

b. On what basis did you conclude that drug dealers “are not incarcerated for drug use or possession”? Please provide evidence on which you relied in making this assertion.

Please see my answer to Question 7.a. above. Further, my letter to the editor stated that “[s]ome drug dealers in prison for distribution and possession with intent to distribute are drug users; they are not incarcerated for drug use or possession.”

8. According to publicly available documents, the Democratic Congressional Campaign Committee (DCCC) filed a complaint against you, in relation to your 1990 congressional campaign, for “openly us[ing] contributions . . . for personal living expenses.” The allegation specifically related to your use of \$4,976.84 of campaign funds for mortgage and automobile payments. According to press coverage of the matter, you said that because you had loaned \$20,000 of your money to the campaign, the money you used to make payments on your house and car was “my money essentially.” You also are on record as saying that it was “really just a matter of accounting,” and that “[a]s long as the campaign owes me more than they are spending on me there’s nothing wrong with it. I’ll not change my conduct.” The Federal Election Commission (FEC) ultimately deadlocked 3-3 over whether to investigate your personal use of campaign funds. (Miles Benson, *Campaign Money Can Help with Bills*, NEW ORLEANS TIMES-PICAYUNE (Aug. 12, 1990); Affidavit of Kenneth D. Bell, FEDERAL ELECTION COMMISSION (Aug. 31, 1990), available at <https://www.fec.gov/files/legal/murs/3107.pdf>)

a. Were you ultimately repaid all \$20,000 of the money that you had personally loaned to the campaign?

My recollection is that by the end of my unsuccessful campaign I had loaned nearly \$45,000 to my campaign. Further, my recollection is that I was never repaid by the campaign for any part of these loans.

b. If so, did that repayment exclude any money that you had used to pay personal expenses during the course of the campaign, including the nearly \$5,000 that was the subject of the complaint?

Please see my answer to Question 8.a. above.

c. Please provide financial statements documenting any repayments.

I do not have any financial statements from my 1990 campaign.

9. On February 22, 2018, when speaking to the Conservative Political Action Conference (CPAC), 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?

I do not recall anyone at the White House or the Department of Justice asking me my views on administrative law.

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 group or organization has asked me my views on administrative law.

c. What are your "views on administrative law"?

Although I have practiced law in the federal courts for 35 years, I have very little experience with administrative law.

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

The Supreme Court and United States Court of Appeals for the Fourth Circuit have provided extensive guidance for district courts when construing a statute. As a district court judge I would faithfully follow the precedents of those higher Courts.

11. 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.

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

I received these questions from the Office of Legal Policy, United States Department of Justice. I answered the questions to the best of my ability. I solicited feedback from members of the Office of Legal Policy. My answers to each question are mine alone.

**Nomination of
Kenneth D. Bell, to be United States District Judge for the Western District of North
Carolina**

Submitted August 29, 2018

QUESTIONS FROM SENATOR WHITEHOUSE

All judicial nominees listed above are directed to answer each of the following questions:

1. During his confirmation hearing, Chief Justice Roberts likened the judicial role to that of a baseball umpire, saying “[m]y job is to call balls and strikes and not to pitch or bat.”
 - a. Do you agree with Justice Roberts’ metaphor? Why or why not?

Yes. Judges are not advocates, and have no stake in a case other than to ensure that the law is followed and that justice is achieved.

- b. What role, if any, should the practical consequences of a particular ruling play in a judge’s rendering of a decision?

Practical consequences should be considered in several contexts. For example, resolution of civil and criminal discovery motions requires consideration of burdens imposed on the parties and the relative ability of the parties to bear such burdens.

2. During Justice Sotomayor’s confirmation proceedings, President Obama expressed his view that a judge benefits from having a sense of empathy.
 - a. What role, if any, should empathy play in a judge’s decision-making process?

All human beings should have, and use, empathy. Judges are not robots, and judging should not be robotic.

- b. What role, if any, should a judge’s personal life experience play in his or her decision-making process?

A judge’s life experience prepares him or her to impartially find the facts and apply the law. It also enables a judge to understand the arguments and explanations of litigants, defendants, victims and witnesses.

3. In your view, is it ever appropriate for a judge to ignore, disregard, refuse to implement, or issue an order that is contrary to an order from a superior court?

No.

4. What assurance can you provide this Committee and the American people that you would, as a federal judge, equally uphold the interests of the “little guy,” specifically litigants who do not have the same kind of resources to spend on their legal representation as large corporations?

Justice is not determined by the resources of a civil litigant or a criminal defendant. Equality under the law, not inequality of financial resources, should dictate the course of

litigation.

5. Do you believe that discrimination (in voting access, housing, employment, etc.) against minorities—including racial, religious, and LGBT minorities—exists today? If so, what role would its existence play in your job as a federal judge?

Sadly, discrimination in many forms exists in our country. If confirmed, I will do all in my power to ensure that discrimination, in any form, plays no role in the administration of justice.

Senator Mazie K. Hirono
Questions for the Record for Kenneth Bell

1. In a July 2016 article in the Charlotte Observer titled “A ‘reasonable’ case for charging Hillary Clinton,” you criticized former-FBI Director James Comey for not pursuing charges against Hillary Clinton. You wrote that “any reasonable prosecutor would indict.”

What was the basis for your conclusion that “any reasonable prosecutor would indict”?

My primary criticism of Director Comey in the July 2016 op-ed was his usurpation of the Attorney General’s charging discretion. FBI agents conduct investigations; Department of Justice officials make charging decisions. In this instance, Director Comey assumed his authority to do both. My opinion that reasonable prosecutors would indict was based on nearly 18 years as an Assistant United States Attorney, 10 of which I served as First Assistant United States Attorney under both Democrat and Republican appointed United States Attorneys.

2. In your July 2016 article, you further wrote that “Clinton’s evolving statements to investigators, Congress and the American people obstructed justice.” President Trump and his representatives have offered a number of evolving statements regarding the Trump campaign’s collusion with Russia. For example, when news broke that Donald Trump, Jr., Jared Kushner, and Paul Manafort met with Russians offering dirt on Hillary Clinton, President Trump dictated a statement that claimed the meeting was about adoption. President Trump’s lawyers initially told the American people that President Trump had nothing to do with the statement. Press Secretary Sarah Huckabee Sanders later stated that President Trump “weighed in” on the statement but denied that he “personally dictated” the statement. Only recently did President Trump’s legal team confirm that President Trump actually dictated the statement.

In view of your statements regarding Hillary Clinton, do you believe President Trump should be prosecuted for obstruction of justice based on his “evolving statements” regarding the Trump campaign’s collusion with Russia?

An answer to that question would require rendering a political and/or legal opinion. As a district court nominee I am not permitted to do either. If I had been a district court nominee in July 2016, I would not have written the op-ed reference above for the same reason.

Nomination of Kenneth D. Bell
United States District Court for the Western District of
North Carolina
Questions for the Record
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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?

Yes.

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

Yes.

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.

I have not studied the issue of racial bias in the criminal justice system.

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

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.

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.

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 this issue sufficiently to have an opinion.

- 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 this issue sufficiently to have an opinion.

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.

Yes.

4. The color of a criminal defendant plays a significant role in capital punishment cases. For instance, people of color have accounted for 43 percent of total executions since 1976 and 55 percent of those currently awaiting the death penalty.⁷

- a. Do those statistics alarm you?

Those statistics are concerning.

- b. Do you believe it is cruel and unusual to disproportionately apply the death penalty on people of color in compared to whites? Why not?

Pursuant to Canon 3(A)(6) of the Code of Conduct for United States Judges, it would not be appropriate for me, as a district court nominee, to comment on a potential Eighth Amendment claim that could come before me as a district court judge.

- c. The color of the victim also plays an important role in determining whether the death penalty applies in a particular case. White victims account for about half of all murder victims, but 80 percent of all death penalty cases involve white victims. If you were a judge, and those statistics were playing out in your courtroom, what would you do?

⁶ *Id.*

⁷ The American Civil Liberties Association, Race and the Death Penalty, <https://www.aclu.org/other/race-and-death-penalty> (Last visited June 13, 2018).

Discrimination, of any kind, is abhorrent, and particularly so in the criminal justice system. As a district court judge I would do all in my power to ensure that all criminal defendants are treated fairly, justly and equally.

Questions for the Record from Senator Kamala D. Harris
Submitted August 29, 2018
For the Nomination of

Kenneth D. Bell, to the U.S. District Court for the Western District of North Carolina

1. On July 31, 1995, you wrote the following letter about an article that discussed abortion rights:

“[The author] poignantly illustrates the twofold indefensibility of the abortion rights position. First, she is outraged at abortion’s being compared to a mother murdering her child, saying abortion is a ‘hard-enough decision.’ Why is it a hard decision? Either the unborn is a mass of cells worthy of no more consideration than a hangnail, or it is a child, which may not be killed. There is no middle ground. Only if a mother knows it is a child rather than a hangnail is abortion a ‘hard decision.’”

a. Do you stand by these statements today?

As a district court nominee it is no longer appropriate for me to express an opinion on the issue of abortion. The Supreme Court has recognized a constitutional right to obtain an abortion and I would faithfully apply that precedent.

b. Your statements suggest that a fetus is a child that may not be killed. Is it your understanding under current law that a fetus has the same rights and freedoms as a person under the U.S. Constitution?

No. Please see my answer to question 1(a) above.

c. What is the legal basis for that belief?

The Supreme Court has well settled abortion rights. Please see my answer to question 1(a) above.

2. 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 carefully review the indictment, presentencing report prepared by the United States Probation Office and sentencing memoranda prepared by counsel for the prosecution and defense. I would also carefully consider the arguments of counsel and any statements the defendant and/or victim choose to make to the court. The United States Sentencing Guidelines must be correctly calculated and considered. 18 U.S.C. § 3553(a) also sets forth factors to be considered before

imposing sentence. I strongly believe that each defendant is entitled to an individually determined sentence based on all of the above.

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

I have practiced in federal criminal courts for almost 35 years, nearly evenly split as a prosecutor and defense attorney. I pledge to use my experience, when applying the process described in response to Question 2.a. above, to render fair and proportional sentences. The decision whether to deprive a person of their freedom, and if so for how long, is the most solemn decision a district court judge makes.

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

The Sentencing Guidelines include appropriate grounds for departures and variances. Factors listed in 18 U.S.C. § 3553(a) may call for varying from the Sentencing Guidelines. The Supreme Court and United States Court of Appeals for the Fourth Circuit have also provided guidance to district courts on the issue.

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, and am not familiar with Judge Reeves' work on the issue.

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

The equity and deterrent effect of mandatory minimum sentences are political questions rightly reserved to the judgment of Congress. As a district court nominee it would be inappropriate for me to comment on the policy decisions of Congress.

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

Please see my answer to Question 2.d.ii. above.

iv. Former-Judge John Gleeson has criticized mandatory minimums in various opinions he has authored, and has taken proactive efforts to

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

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?

If confirmed, I would impose a statutory mandatory minimum sentence unless the statute is unconstitutional. If a mandatory minimum sentence is imposed, but the judge would have otherwise imposed a lesser sentence, it would be appropriate for the judge to state on the record that he or she would have imposed a lesser sentence absent the statutory requirement. However, a judge should not personally criticize policy decisions of Congress.

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

Charging decisions are given to the Executive Branch by the Constitution. However, ethical violations by prosecutors and prosecutorial misconduct in charging decisions are appropriately addressed by courts.

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

Clemency decisions are reserved to the Executive Branch by the Constitution. To the extent that a judge states on the record that he or she would have imposed a lesser sentence absent the statutory requirement, it is hoped that the Executive Branch will consider such statement.

- 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.

3. 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.

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>

- a. Does a judge have a role in ensuring that our justice system is a fair and equitable 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 have not made a study of the issue, and cannot cite specific examples, but it is my opinion that racial disparities exist in the criminal justice system.

4. 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?**

Yes.

- 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.