

Nomination of Lance Walker to the U.S. District Court for the District of Maine
Questions for the Record
June 13, 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?

No. It is never appropriate for a lower court to depart from Supreme Court precedent.

b. Do you believe it is proper for a district court judge to question Supreme Court precedent in an opinion?

All Supreme Court precedent is binding on lower court judges. Occasionally it may be necessary and prudent for a district court judge in her analysis to discuss the proper application of Supreme Court precedent to a particular set of facts before the court. A district court judge may also point out a split among the circuit courts in applying Supreme Court precedent.

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

A district court judge should be reluctant to overturn its own precedent. However, to do so may occasionally be required. When doing so, a district court judge should only overturn its own precedent as narrowly as is required by the particular facts before the court.

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

The Supreme Court possesses sole authority to overturn its own precedent. As such, it is inappropriate to comment on when the Supreme Court may do so as it alone has that authority.

2. When Chief Justice Roberts was before the Committee for his nomination, Senator Specter referred to the history and precedent of the Roe case law as “super-stare decisis.” One text book on the law of judicial precedent, co-authored by Justice 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”? “superprecedent”?

All Supreme Court precedent would be binding on me as a district court judge. I will apply all Supreme Court precedent faithfully, unreservedly, and with equal force.

b. Is it settled law?

Yes. *Roe* and all other Supreme Court precedent is settled law and I will faithfully apply all Supreme Court precedent.

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. *Obergefell* and all other Supreme Court precedent is settled law and I will faithfully apply all Supreme Court precedent.

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 inappropriate for me to comment on whether I agree with Justice Stevens. *Heller* is Supreme Court precedent and I will faithfully apply it and all other Supreme Court precedent.

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

Heller stands for the proposition that the Second Amendment should be read to guarantee an individual right to possess and carry weapons that are commonly in use for self-defense. *Heller* also held that the Second Amendment does not grant the “right to keep and carry any weapon whatsoever in any manner whatsoever for whatever purpose”. It would be inappropriate as a judicial nominee for me to speculate as to how the Supreme Court may apply that limitation. I will faithfully apply *Heller* and all other precedent of the Supreme Court.

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

As a judicial nominee it would be inappropriate for me to comment on whether *Heller* was decided correctly. It is Supreme Court precedent and I will faithfully apply it and all other precedent.

5. On your Senate Judiciary Questionnaire, you state that you have been a member of the National Rifle Association (NRA) “approximately and intermittently” from 2001 to the present.

a. Are you currently a member of the NRA?

After I submitted my Senate Judiciary Questionnaire, I learned that my membership expired in 2015. I am thus not currently a member of the NRA.

b. If confirmed to the federal bench, will you remain a member of the NRA?

I do not intend to renew my expired membership.

c. Do you commit to recusing yourself from any cases that come before you that present legal issues upon which the National Rifle Association has taken a position? If not, why not?

If confirmed, I will follow the federal recusal statute, Canon 3 of the Code of Conduct for United States Judges, and any and all other laws, rules, and practices governing such circumstances. I will evaluate any real or potential conflict, or relationship that could give rise to an appearance of conflict, on a case-by-case basis and determine appropriate action with the advice of parties and their counsel, including recusal where necessary. As the decision to recuse is, by its nature, a factually intensive analysis that

must be carefully considered on a case by case basis, I believe any generalization about recusal would be inappropriate.

d. Can you cite any issue areas where you disagree with the NRA's publicly stated positions?

As a sitting Justice and federal judicial nominee, I am prohibited from commenting on political matters. I do note, however, that it is not unusual in rural Maine, where hunting and outdoor shooting sports are part of the fabric of life, to be a member of the NRA and I do not believe NRA membership necessarily signifies agreement with all of the NRA's publicly-stated positions.

6. On your Senate Judiciary Questionnaire, you state that several years ago you taught "basic firearms law" as part of a "basic pistol course" at the Scarborough Fish and Game Club.

a. Please elaborate on the specific aspects of "firearms law" that you taught.

I taught, or read to the class, state statutes that might be implicated in the ownership, use or possession of a firearm in Maine. This ranged from who may lawfully possess and use a firearm, how individuals may lawfully transport a firearm, and places where firearms are prohibited.

b. Did the NRA, or any outside organization, provide the curriculum or any materials used in this course?

To the best of my knowledge, no. My instruction simply was the product of my own research and offered through the Club.

c. If so, what organizations and what was provided?

Please see my answer to question 6(b).

7. On your Senate Questionnaire, you indicate that you were a member of the Federalist Society from approximately 1997 to 2002. The Federalist Society's "About Us" webpage explains the purpose of the organization as follows: "Law schools and the legal profession are currently strongly dominated by a form of orthodox liberal ideology which advocates a centralized and uniform society. While some members of the academic community have dissented from these views, by and large they are taught simultaneously with (and indeed as if they were) the law." It says that the Federalist Society seeks to "reorder[] priorities within the legal system to place a premium on individual liberty, traditional values, and the rule of law. It also requires restoring the recognition of the importance of these norms among lawyers, judges, law students and professors. In working to achieve these goals, the Society has created a conservative and libertarian intellectual network that extends to all levels of the legal community."

- a. Could you please elaborate on the “form of orthodox liberal ideology which advocates a centralized and uniform society” that the Federalist Society claims dominates law schools?**

My involvement with the Federalist Society was limited. I cannot elaborate on what is meant by this statement, as I did not make it.

- b. How exactly does the Federalist Society seek to “reorder priorities within the legal system”?**

Please see my answer to 7(a).

- c. What “traditional values” does the Federalist society seek to place a premium on?**

Please see my answer to 7(a).

8. 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 difference 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?**

No.

- 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.

- c. What are your “views on administrative law”?**

If confirmed as a district court judge, I will apply the precedent of the Supreme Court and the First Circuit faithfully.

9. 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 at outside groups — about loyalty to President Trump? If so, please

elaborate.

No.

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

The Justice Department forwarded to me your questions and I personally drafted responses to the best of my ability. After sharing those draft responses with the Office of Legal Policy, which offered suggestions and comments, I revised my responses as I deemed appropriate in light of those suggestions and comments.

**Nomination of Lance E. Walker
United States District Court
For the District of Maine
Questions for the Record
Submitted June 13, 2018**

QUESTIONS FROM SENATOR WHITEHOUSE

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?

I think that description is basically accurate.

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

Generally, a judge is not to consider the practical consequences of his ruling except in limited circumstances. For example, such considerations may be appropriate in determining whether injunctive relief should be granted. And in matters of statutory interpretation, canons of construction allow a judge to be guided by the principle that an absurd result should be avoided. But a federal judge should not decide cases based on her own personal views or opinions regarding what she may perceive to be correct outcomes. Practical consequences are matters of policy to be resolved by elected representatives in the political branches.

2. During Justice Sotomayor’s confirmation proceedings, President Obama expressed his view that a judge benefits from having a sense of empathy, for instance “to recognize what it’s like to be a young teenage mom, the empathy to understand what it’s like to be poor or African-American or gay or disabled or old.”
 - a. What role, if any, should empathy play in a judge’s decision-making process?

A judge should faithfully apply the law impartially to all parties before the court. There are circumstances, such as the sentencing process, in which a judge is authorized to consider the particular characteristics and history of the defendant.

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

We are all affected by our own personal life experiences. The challenge a judge must meet is to impartially administer justice consistent with the law as enacted by the political branches or as handed down by the Supreme Court. An impartial tribunal is critical to the integrity of a constitutional democracy.

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?

I take very seriously my obligation as a Justice on the Maine Superior Court to administer justice equally to all parties before the court. I was twice unanimously confirmed by the Maine Senate for judicial office. I have earned a reputation among the bench and bar for being fiercely independent and balanced in my approach to litigants. I was born and raised in Piscataquis County, one of Maine's poorest and most rural counties, but I have also represented corporations while a partner at one of Maine's premier law firms. I am preternaturally aware of the need for all parties before the court to receive a fair and impartial hearing.

- a. In civil litigation, well-resourced parties commonly employ "paper blizzard" tactics to overwhelm their adversaries or force settlements through burdensome discovery demands, pretrial motions, and the like. Do you believe these tactics are acceptable? Or are they problematic? If they are problematic, what can and should a judge do to prevent them?

Yes, these tactics are problematic and are not tolerated in my court in Maine. The Federal Rules of Civil Procedure allow a judge a great deal of latitude in stopping these abuses. See Fed. R. Civ. P. 1 and Fed. R. Civ. P. 26(b)(1). A wide variety of sanctions for discovery violations are also available to dissuade a litigant from employing these tactics.

5. You were reversed by the Supreme Judicial Court of Maine for issuing an order that was a verbatim copy of the proposed order submitted by one of the parties. The Supreme Judicial Court noted that a number of your findings "resemble a party's advocacy or are not clearly supported in the record," and that "we cannot conclude that the findings were the result of careful judicial deliberation and the exercise of independent judgement." What assurances can you give this committee and the American people that you would, as a federal judge, exercise independent judgement and careful deliberation?

I would refer the Committee to the full body of my work as a Judge on the Maine District Court and as a Justice of the Maine Superior Court, my two unanimous confirmations to the Maine bench, as well as the many letters of support I have received from prominent members of the Maine legal community, which I believe show that I've earned a reputation for impartiality, independence and thoughtful deliberation.

Respectfully, the description above (of my opinion in *Yap v. Vincent*) is incomplete. This case was a contested family matter and the practice in contested family matters, which are heard by the Maine District Court, historically has been to request and utilize proposed orders by the lawyers representing the parties. Although the Maine Supreme Judicial Court vacated my initial decision, it also faulted the losing party for failing to file a motion "which would have afforded the court an opportunity to address his concerns prior to the filing of an appeal." Nor did the Maine Supreme Judicial Court conclude that my ultimate conclusion was incorrect. Indeed, on remand I issued a new decision that reached the same result and this latter decision was not appealed. If confirmed to be a federal district court judge, I would continue to approach every matter before me with the utmost care, deliberation, and independent judgment.

6. Regarding drug abuse and alcoholism, you have said, "[w]e can't prosecute our way out of this problem. We can't jail our way out of this problem." As a district court judge, what role will you play in ensuring that those dealing with alcoholism, drug abuse, and substance abuse are

appropriately treated by the criminal justice system?

I will do so in the way that I have as a judge in Maine for the last several years. To be aware of the insidious problems caused by substance use disorder is an indispensable first step. Identifying the problem clearly and with some authority allows a judge to help find suitable solutions. Finding authorized alternatives to incarceration has proven successful in Maine with our Drug Court and Veteran's Court. I would expect to continue similar efforts if confirmed to the federal trial bench.

7. You have been a member of the National Rifle Association (NRA) “approximately and intermittently” since 2001. The organization is engaged in considerable legal advocacy to “defend and foster the Second Amendment.” What steps will you take to ensure that you treat all sides of advocacy around the Second Amendment impartially?

As I explain in response to Senator Feinstein’s questions, I recently learned that my NRA membership expired in 2015. Although I receive mailings from the NRA, I am not currently a member. I do not intend to renew my membership. I am proud of my well-earned reputation for being impartial and fair to all litigants in my courtroom and that will not change regardless of the litigants or the subject matter of the litigation.

Senator Mazie K. Hirono
Questions for the Record for Lance Walker

1. As part of my responsibility as a member of the Senate Judiciary Committee and to ensure the fitness of nominees, I am asking nominees to answer the following two questions:

a. Since you became a legal adult, have you ever made unwanted requests for sexual favors, or committed any verbal or physical harassment or assault of a sexual nature?

No.

b. Have you ever faced discipline, or entered into a settlement related to this kind of conduct?

No.

Nomination of Lance E. Walker
United States District Court for the District of Maine
Questions for the Record
Submitted June 13, 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 believe that there is implicit and explicit bias, racial and otherwise, in every aspect of American life.

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

I am certainly aware of statistical data which demonstrate that people of color are incarcerated at a higher rate than whites.

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.

Judge Mark Bennett of the Northern District of Iowa presented on the subject of implicit bias to all state court judges in Maine approximately 2 years ago. I was profoundly affected by Judge Bennett's presentation and it is never far from my mind when I am on the Maine Superior Court bench.

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 had the opportunity to study this data or its correlative connection, so I cannot intelligently remark on it. However, as a Justice on the Maine Superior Court, I have been involved in diversionary programs such as Drug Court and Veteran's Court and have observed remarkable success. As a judge, I have spoken to addicts, caregivers and law enforcement about opioid addiction and its intersection with the criminal justice system, remarking that we are not going to prosecute or incarcerate our way out of these problems.

- 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 2(a).

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.

I unequivocally believe that an important goal is demographic diversity in the judicial branch.

4. Since *Shelby County, Alabama v. Holder*, states across the country have adopted restrictive voting laws that make it harder, not easier for people to vote. From strict voter ID laws to the elimination of early voting, these laws almost always have a disproportionate impact on poor minority communities. These laws are often passed under the guise of widespread voter fraud. However, study after study has demonstrated that widespread voter fraud is a myth. In fact, an American is more likely to be struck by lightning than to impersonate someone voter at the polls.⁷ One study that examined over one billion ballots cast between 2000 and 2014, found only 31 credible instances of voter fraud.⁸ Despite this, President Trump, citing no information, alleged that widespread

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.*

⁷ JUSTIN LEVITT, THE TRUTH ABOUT VOTER FRAUD, BRENNAN CENTER FOR JUSTICE 6 (2007), available at <http://www.brennancenter.org/sites/default/files/legacy/The%20Truth%20About%20Voter%20Fraud.pdf>.

⁸ Justin Levitt, *A comprehensive investigation of voter impersonation finds 31 credible incidents out of one billion ballots cast*, THE WASHINGTON POST, Aug. 6, 2014, available at

voter fraud occurred in the 2016 presidential election. At one point he even claimed—again without evidence—that millions of people voted illegally in the 2016 election.

- a. As a general matter, do you think there is widespread voter fraud? If so, what studies are you referring to support that conclusion?

The Code of Conduct for United States Judges prohibits me from commenting on pending or impending matters in any court, or upon matters involving politics or policy. As such, I believe it would be inappropriate for me to respond to this question.

- b. Do you agree with President Trump that there was widespread voter fraud in the 2016 presidential election?

Please see my answer to 4(a).

- c. Do you believe that restrictive voter ID laws suppress the vote in poor and minority communities?

Please see my answer to 4(a).

5. 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.⁹

- a. Do those statistics alarm you?

Yes.

- 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?

I am aware that this is a matter that is or likely will be litigated and my understanding is that a similar issue is currently pending before the United States Supreme Court. *See Wood v. Oklahoma*, No. 17-6891 (U.S.). As such, to comment further would be inappropriate under the Code of Conduct for United States Judges.

- 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

https://www.washingtonpost.com/news/wonk/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/?utm_term=.4da3c22d7dca.

⁹ The American Civil Liberties Association, Race and the Death Penalty, <https://www.aclu.org/other/race-and-death-penalty> (Last visited June 13, 2018).

victims. If you were a judge, and those statistics were playing out in your courtroom, what would you do?

Please see my answer to 5(b). Racial bias in any form has not been tolerated in my courtroom as a Justice on the Maine Superior Court and shall not be tolerated if I am confirmed to this position.

Questions for the Record from Senator Kamala D. Harris
Submitted June 13, 2018
For the Nominations of

- Holly A. Brady, to be U.S. District Judge for the Northern District of Indiana
 - Andrew Brasher, to be U.S. District Judge for the Middle District of Alabama
 - James Patrick (“JP”) Hanlon, to be U.S. District Judge for Southern District of Indiana
 - David Steven Morales, to be U.S. District Judge for the Southern District of Texas
 - Lance Edward Walker, to be U.S. District Judge for the District of Maine
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?

As a Justice on the Maine Superior Court, I have imposed many sentences, which is the most humbling aspect of my job. Although federal sentencing involves a different process, the basic considerations are similar if not identical. Each defendant is entitled to an individualized sentence, consistent with the unique factors that each case brings to bear. I would consult and carefully consider the goals of imposing a fair sentence along with argument of counsel, the presentence report from the probation officer, the advisory Sentencing Guidelines, the impact statements of victims along with statements of other witnesses. 18 U.S.C. § 3553(a). As I always have, I will exercise the highest degree of care and consideration, consistent with the law, when sentencing a defendant.

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

Please see my answer to 1(a).

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

The advisory Sentencing Guidelines enumerate circumstances under which a departure from the Guidelines is allowed. Certain factors under 18 U.S.C. § 3553(a) may also allow for a departure.

- 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 believe that the Code of Conduct for United States Judges prohibits me from commenting on matters regarding pending or impending litigation, or policy. The decision to pass laws about mandatory minimum sentences is exclusively that of Congress. As such, it would be inappropriate for a judicial nominee to comment on its effectiveness or wisdom.

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

Please see my answer to 1(d)(i).

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

Please see my answer to 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?

Mandatory minimum sentences have generated great controversy and debate in my state and I have been required to address it as a sitting Justice on the Maine Superior Court. Judicial opinions may not be the most appropriate, or effective way, for a judge to register her disagreement with a law. As I always have as a judge, I will carefully consider the law and my ethical obligations. I have earned a reputation for writing thorough and descriptive judicial opinions and I expect to continue that practice if confirmed.

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

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>

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

The manner in which prosecutors charge is a matter reserved to the Executive Branch. I would respect the separation of powers inherent in the constitutional architecture. However, I would consider discussing charging policies in the appropriate context.

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

Clemency is a power reserved to the Executive Branch and ultimately I would be bound to respect the separation of powers inherent in our constitutional architecture.

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. I have as a Justice on the Maine Superior Court, with great success. I will continue to do so, as appropriate and to the extent consistent with law, if confirmed to this position.

2. 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.

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.

Yes; please see my response to question 1(b) from Senator Booker.

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?

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?

I will ensure that all qualified minorities and women candidates are given serious consideration for every position that I have the authority to fill.