

WRITTEN QUESTIONS FOR RUTH BADER GINSBURG
FROM JOSEPH R. BIDEN, JR.
July 27, 1993

1. At the hearings, you discussed the *Chevron* doctrine of statutory interpretation. See *Chevron USA v. NRDC*, 467 U.S. 837 (1984). Following the Supreme Court's decision, some courts have applied the "*Chevron* rule" to require deference to the agency's reasonable policy view unless Congress has resolved the precise matter at issue in a contrary way. Ready deference to the administrative agency whenever a statute is ambiguous or silent on a specific point stands in tension with a court's duty to reason from broad congressional statements of purpose to the particular issue before the court.

How should *Chevron* be applied in light of this tension?

What are the limits on this doctrine, and what sort of factors would you take into account in determining the proper deference owed to agency interpretation?

2. In your written response to the Committee's questionnaire, you stated that:

It is inappropriate, in my judgment, to seek from any nominee for judicial office assurance on how that individual would rule in a future case. That judgment was shared by those involved in the process of selecting me. No such person discussed with me any specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning my position on such case, issue, or question.

During the six months prior to the announcement of my nomination, I had no communication with any member of the White House staff, the Justice Department, or the Senate or its staff referring or relating to my views on any case, issue or subject that could come before the United States Supreme Court.

For the record, was any attempt made by anyone associated with the Administration to obtain a commitment concerning, or to determine, how you would decide any issue or case?