

**Justice For Massachusetts
2018 DA Candidate Questionnaire**

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In 2018, it is clearer than ever that our criminal justice system is damaging the lives and life chances of individuals and communities, especially individuals and communities of color. It is doing so at the expense of real community safety and at huge expense in public resources. Big change is needed if we are to have a system that truly serves justice. We believe DA's have a central role to play in making that change happen--both in setting policies for prosecution and in advocating for laws to reform our criminal justice system.

General Questions

- 1) What experience do you have that will prepare you to reshape the criminal justice system through the DA's office?

My criminal law professor, Angela J. Davis, taught me that the justice system works exactly as it was designed to work- to lock up people of color and people living in poverty. She taught us about the tremendous power of prosecutors in an oppressive system. After law school I represented people on Florida's death row in their post-conviction appeals. I then moved back to my home town to raise my family and worked representing my clients in criminal trial and appellate matters in Berkshire County. I am currently at a firm where I practice plaintiff side employment litigation, consumer protection and family law. My fifteen plus years of experience representing defendants has inspired me to run for this position because I have long wished for a District Attorney who shares my values. As the Berkshire County District Attorney, I pledge to: (1) protect the innocent by adhering to the highest ethical and legal standards in prosecuting criminal cases; (2) reallocate resources from prosecuting and incarcerating people accused of lower level offenses to social programs that will lift our community up by addressing poverty, substance abuse, and mental illness; and (3) seek justice for victims of serious crimes by believing victims and devoting resources to finding justice for victims. My over arching goal is to prevent

people from offending and re-offending by addressing the underlying causes of crime and keeping people out of the jails.

- 2) What do you think about the growing prison population? What role with your DA's office take in reducing it?

I am running for District Attorney because I am deeply troubled by the rates of incarceration in this nation and in my own community. Incarceration for nonviolent offenses robs people of their humanity and spreads misery to incarcerated individuals and their families. We simply need to stop incarcerating nonviolent people. It is a waste of taxpayer dollars and causes economic and other hardships for incarcerated people and their family members. This is a huge loss to the economy and emotional health and wellbeing of our community. I advocate for investing the funds that are currently spent on prosecuting and incarcerating non violent people on social programs that will lift people up. When someone is incarcerated, they cannot contribute to society through work and family. Reducing incarceration rates is the right thing to do; I believe that for all but the most hardened offenders the emphasis of the criminal justice system should be therapeutic rehabilitation.

- 3) What are your thoughts on the War on Drugs?

High recidivism rates demonstrate that the war on drugs has been a failure. Prosecuting and incarcerating people who struggle with addiction does not treat the addiction. The only way to address addiction is to provide people with support to address the underlying causes of addiction. For example, treatment for underlying mental health problems, childhood trauma and addressing lack of economic opportunity are the ways to get to the root causes of addiction. The war on drugs has also disproportionately impacted people of color who receive harsher sentences. This is unjust.

- 4) Do you believe there is under-representation of women or people of color working in the court system? If so, how would you work to correct the problem?

I believe that tough problems are best tackled by groups with diverse experiences which is why I have worked to get more women and people of color involved in politics by co-founding the Berkshire Committee of the Massachusetts Women's Political Caucus and by mentoring and supporting candidates that I believe in. In my law practice, I represent women, people of color, and people with disabilities that have been discriminated against in the workplace. I am currently representing a female corrections officer that was discriminated against due to her gender.

As the top law enforcement officer in the county, I will work to recruit more

women and people of color into the court system and into law enforcement.

- 5) Do you believe that all citizens have adequate access to legal help and the legal system? If not, what can be done to provide wider and better access?

I have represented hundreds of clients in criminal trial and appellate matters as court-appointed counsel. I see a huge need for more legal services for low and middle income people in civil matters. The need is too great for the legal aid organizations or for private attorneys to handle pro bono. As a private attorney, turning away people who need legal help is a terrible feeling. I am interested in finding new sources of funding to expand legal aid for low income people who need legal services and for making the legal process easier for unrepresented litigants. More cases should be mediated which could be done through court programs and bar association mediation programs.

- 6) What efforts will you take to increase language access for immigrants that's beyond the right to a court interpreter?

I will work with local advocacy agencies such as the Berkshire Immigrant Center to ensure that the immigrant community has full access to the legal system. I will hire multilingual staff and will advocate for the courts and other law enforcement agencies to do the same. I will ensure that non native speaking parties have an opportunity to read and understand documents in their native language and that parties have access to interpreters outside of the court.

- 7) What will you do to ensure that the community stays up to date on the changes you have made as District Attorney? How do you propose that the community should hold you accountable for the commitments you make during your campaign?

Berkshire County has a dedicated array of activists and change makers working every day to address social challenges. I am and will remain actively engaged with civic leaders and activists in working together to fight the opioid epidemic, bring justice to communities of color, immigrants, our LGBTQ+ friends, and people suffering under income inequality. I will work with these groups and with law enforcement on developing diversion programs and strengthening our social safety net. I will work with domestic violence advocates to protect victims from crime and will work to prevent abuse. I will hold community forums to discuss criminal justice reform and to share information and receive feedback from the community. I will post my policies and updates on my website along with data and results. I will also communicate this information to my constituents through email, press releases, newsletters, and public forums. Transparency and accountability are among my top priorities.

Alternatives to incarceration:

- 1) What specific types of programs (please give examples of programs in other jurisdictions) will you implement or expand to deal with issues of mental illness?

I support bringing Mental Health and Veterans Treatment Courts to Berkshire County. Those courts emphasis treatment over incarceration for veterans and others suffering from mental illness.

- 2) How do you plan to handle issues that arise with children in school ending up in court?

I fully support juvenile diversion programs. Both Suffolk and Middlesex Counties have formal diversion programs that seek to pair juvenile offenders with the clinical services needed to prevent recidivism. Suffolk County's program, while not diverting offenders who commit more serious crimes, has expanded the universe of eligible offenders. It is open to more than the first- time low-level offenders who have traditionally been diverted. I feel it is important to intervene early with the most at-risk youth to steer them away from a life of crime. My experience representing juveniles and as a parent has taught me that youth are very impressionable. If we tell our youth that they are criminals, they will believe us. I strongly advocate for programs that will empower our youth.

Unlike the current Berkshire DA's office, I support raising the age of juvenile responsibility from seven years old to 12 as proposed in the new criminal law reform bill. Children under 12 should not be prosecuted in the criminal justice system. Those offenders are better dealt with through the CRA process which emphasizes the provision of social services.

- 3) Will you commit to establishing and fully funding a pre-arraignment diversion program that allows people arrested for petty offenses, including low-level drug possession or sale, to get the help and support they need without needlessly exposing them to the consequences of a criminal conviction? If not what specific steps will you take to create avenues for defendants to be diverted away from criminal prosecution?

I am a strong proponent of pre-arraignment diversion in these types of matters. Amazingly, the local police chief in the largest city in my County has been advocating for this type of diversion for many years, but our District Attorney has refused. I would hold cases at show cause and would work with local social service organizations to provide treatment and job training for people that are charged with low level crimes. I would work with my legislators to shift funding from the court process and incarceration to pay for such programs.

- 4) Will you commit to expanding pre-trial services? Which services will you commit to expanding or developing?

Pre-trial services generally fall under the purview of the court system in Massachusetts and I would use my position as one of 11 elected District Attorneys to advocate to expand these services as I am a strong proponent of increasing pre-trial services particularly relating to pre-trial release. Counties save money when defendants are not incarcerated pre-trial and the collateral consequences to the people who live in Berkshire County and their families have been devastating. Berkshire County is the poorest in the Commonwealth, and I have worked with too many clients that have lost jobs, homes, possessions, cars, due to being detained pretrial. This also creates huge stress on families with children who may be sent into the foster care system when parents are detained pretrial. Services that allow the release of defendants' pre-trial on supervision should be expanded.

- 5) What percentage of your budget will you commit to establishing and supporting community vetted alternatives to incarceration?

Again, these costs are generally not budgeted through the District Attorney's Office, but I will partner with legislators to transfer resources from the prosecution, defense and incarceration of non-violent offenders to programs that will help people in my community.

- 6) Will you commit to diverting or dismissing all simple possession drug cases?

Yes.

Charging/Pre-Trial:

- 1) Will you commit to not requesting cash bail in all misdemeanor and low-level felony cases?

Children in Massachusetts are generally not held in adult facilities, and I will fight any effort to change that. Our juvenile detention facilities must not be used to warehouse children that the system does not know how to deal with. The purpose of juvenile detention is to provide correctional services to juveniles convicted of a violent crime or to house juveniles who are too dangerous to release pre-trial. I do not view juvenile detention as another type of social service and will not treat it as such.

I support the Supreme Court's decisions banning life without parole for juveniles. I would not seek such life sentences for juvenile offenders. Nor would I

seek to charge juveniles as adults.

- 2) More and more youth are being held in adult jails before they even reach trial. As DA, what would you do to keep children out of the system?

I will enforce an office-wide policy for ADAs to conference the cases described above and to seek a disposition before arraignment. Where that is impossible, I will seek to dispose of the case at the earliest opportunity. I do not feel that defendants should be repeatedly and unnecessarily haled into court, with the attendant disruptions to their work and school schedules, to defend low-level offenses. I also find this to be a waste of tax dollars.

- 3) Tens of thousands of people are under correctional control for minor non-dangerous misdemeanor offenses. What will your office do to limit unnecessary criminal prosecution for those accused of minor non-dangerous offenses? Will your office commit to reducing the number of misdemeanors charged in cases where there is no threat to public safety?

Being under "correctional control" is tremendously burdensome, costly, and not helpful. My office will not pursue charges for minor offenses and I will work with local law enforcement and local community agencies to implement a diversion program to provide helpful services where appropriate. I will work with my legislators to shift funding from the criminal justice system to social programs.

- 4) In many cases a minor criminal charge can have devastating immigration consequences. What will you do to work with our immigrant populations to ensure they are exposed to additional punitive consequences? Would your office commit to considering immigration consequences for defendants as part of determining what to charge? Additionally, would you institute guidance and education for your prosecutors to avoid extreme immigration penalties (i.e. deportation)?

I have battled our current District Attorney's office on this issue and ^[1]_{SEP} have been horrified by the office's complete disregard of the outsized ramifications of criminal charges to undocumented people. I have seen probation officers threaten to turn people charged with minor offenses into ICE. My office will take those consequences into account when charging people and/or on disposition.

- 5) Will your office create and share clear policies that detail when and why you will use sentencing enhancements?

As a longtime criminal defense attorney, I know all too well how horrible time in jail is for both the incarcerated person and their loved ones. I expect ADAs in my office to have an appreciation for this fact. Nearly every ADA in the current DA's office in Berkshire County has only ever worked there. They have never had a client. Too often the prosecutors in Berkshire County and elsewhere start at the maximum sentencing range and look for justification to make downward

recommendations. This thinking must be reversed. My office will have clear policies and guidance as to when and why line prosecutors will climb the sentencing ladder.

- 6) Will your office commit to using independent prosecutors to investigate cases of alleged police brutality?

I am committed to using independent prosecutors to investigate cases of alleged police brutality. It is not appropriate for the prosecutors that work hand in hand with law enforcement to investigate such allegations due to an inherent conflict of interest. I will work for equality under the law at every opportunity. Where an individual is killed in custody, I will seek a judicial inquest to investigate the circumstances surrounding the death.

- 7) Are there mandatory minimums you will commit to stop using to pressure people into pleading guilty? If not, why not? If so, which?

I am opposed to most if not all mandatory minimum sentences and I support the recently passed Criminal Justice Reform bill in Massachusetts. The bill appropriately eliminated many mandatory minimums, however, the bill added a minimum mandatory for the sale of drugs containing fentanyl. I am opposed to the inclusion of this minimum mandatory. I believe that sentencing in drug cases is best left to the discretion of the trial judge and that this minimum mandatory sentencing scheme oppressive and is a relic of the failed war on drugs. I am investigating the role of minimum mandatory sentences for gun related charges and the current scheme of operating under the influence in enhancing public safety.

- 8) What efforts will you take to identify cases where individual uses the criminal system for retaliatory purposes?

I will provide training for my ADAs and staff to ensure that we are prosecuting cases that are based on credible, reliable evidence. We will set a new standard of measurement of our success that is based on achieving justice and not on a conviction rate.

Administrative:

- 1) In many prosecutor's offices, prosecutor performance is measured by their conviction rates. Would you commit to using alternative metrics you would use to measure prosecutorial performance? If so, which?

I intend for my office to distinguish between violent cases charging violent crime and lower level offenses. I will focus the resources of my office on obtaining convictions for violent crimes in order to obtain justice for victims. My

office will seek to ensure that we do not convict defendants who are not guilty. I will hold myself and my office to the highest professional standards in terms of discovery, handing over exculpatory materials, ensuring that investigators have conducted thorough investigations and have not rushed to judgment.

- 2) Will you commit to collecting and sharing data with the public? Would your office commit to collecting demographic data (e.g., race, gender and sexual orientation) about who is charged, what they are charged with, what plea is offered and what bail is recommended?

This is a major policy objective. I am also committed to transparency and accountability to the public in terms of how much money they are spending and what benefit my office has provided to the community by transferring resources from prosecution and incarceration to programs that will support people. I will work with the State Auditor and with my legislators for funding and expertise in order to collect and share data so that we can measure the effectiveness of my office.

- 3) Will you commit to making the raw data (above) available to the public (of course this would exclude personally identifying information)?

Yes.

- 4) Would your office commit to an open file policy that provides defendants with information about their prosecution as early as possible?

In my experience, prosecutors have a very limited understanding of what constitutes exculpatory evidence under *Brady*. I will provide legally mandated discovery to defendants early in the process. I realize defendants need discovery in order to prepare for trial and to make decisions about whether to accept a plea offer and so that the adversarial process works as intended.

Wage Theft:

- 1) Wage theft is often left to attorney generals or civil lawsuit to be dealt with instead of being prosecuted as theft. Will you commit to use your office to prosecute employers who are stealing wages?

Yes.

Civil Forfeiture:

- 1) In what circumstances will your office move for civil forfeiture?

I am opposed to the use of civil forfeiture. There could perhaps be some appropriate use upon conviction in a major criminal matter in Superior Court and

involving property obtained and used by the Defendant where the assets would be put towards diversion programs or assistance to victims.

Post-Conviction:

- 1) What steps will you take to reduce re-incarceration for people who pose no public danger but have violated their supervision?

In Massachusetts, the decision to seek re-incarceration generally falls to the Probation Department. Oftentimes, it seems that the terms of probation have set probationers up to fail as they are onerous and create a major financial burden. My office will seek to limit probation to terms that are feasible and helpful to probationers. My office will recommend against incarcerating people for violating the terms of their probation unless absolutely necessary to protect the public safety from a specific threat.

Lobbying:

- 1) How will you use your public and political influence to reduce mass incarceration and racial disparity in the criminal justice system?

I have supported the Legislature's criminal justice reform bill. I intend to engage with the criminal justice system reform efforts now underway in Massachusetts. I will not reflexively oppose the efforts as most of the other DAs in the state have. I will work with advocates for reform to implement evidence based programming instead of seeking retribution.

- 2) Will you support the following State legislative proposals:

- Ending cash bail?
- Increasing the age at which an offender is charged in juvenile court?
- Repealing mandatory minimums?

I fully support all of the above. Cash bail should only be used in^[SEP] limited circumstances; I look forward to the day when it can ended altogether. I oppose stop and frisk; no one should be stopped without cause. Even though Massachusetts no longer has the death penalty, I am especially passionate about death penalty abolition. When I defended death penalty cases in Florida, I saw how racial and economic disparity affects the imposition of the death penalty. I support the repeal of mandatory minimums.^[SEP]

- 3) Key to the integrity of our criminal defense system is the right of defendants to meaningful representation throughout the criminal justice process. There have been huge cuts in the budget of public defenders that have made it hard for them

to do their job. Will you advocate for fully funded public defense at the local and state level?

The low level of funding of the criminal defense system is a crisis. Public defenders need the resources to attract and train skilled attorneys. Public defenders have massive caseloads and are underpaid. As a former panel attorney, I recognize the importance and difficulty of this work. The public defense system must be funded so that defendants have meaningful representation.