

North Carolina District Attorney Candidate Questionnaire

As part of our organizations' effort to reduce the state prison population while combatting racial disparities in the criminal justice system, the ACLU of North Carolina and the Carolina Justice Policy Center are interested in engaging with North Carolina's district attorneys. Our goal is to educate voters, and those who have been impacted by the justice system, about the influence that district attorneys can have on policies that reduce or fuel mass incarceration.

We would like to provide voters with information about where candidates for district attorney across our state stand on critical criminal justice reforms, such as prosecutorial transparency, reducing incarceration, eliminating racial disparities in the criminal justice system, and ending the death penalty.

All candidates for district attorney in North Carolina are receiving this questionnaire. Responses will be made publicly available in an effort to hold candidates accountable to their communities' fundamental need for justice, safety, and respect.

Please write your answers in this document and email your responses to Susanna Birdsong at sbirdsong@acluofnc.org on or before April 17, 2018.

Responses may also be mailed to:

ACLU of North Carolina
PO Box 28004
Raleigh, NC 27611

Mission and Vision

1. Will you pledge to articulate a mission and vision for the Office that places the focus on justice, rather than winning cases, and align the work of the Office—including internal and external communications, training, policies, and hiring and promotion practices—to reflect that mission and vision? Please give a clear “Yes” or “No” and any explanation.

Yes –

I will work to ensure my office complies with all of its professional and constitutional duties to provide all relevant information to defendants and their lawyers. I will establish an open data portal to provide public access to the case flow of the office to allow the public to monitor the administration of justice through my office.

No

Mass Incarceration

2. Do you agree that prosecutors’ practices have contributed significantly to mass incarceration? Please give a clear “Yes” or “No” and any explanation.

Yes –

By prosecuting insignificant crimes and non-violent drug offenses, prosecutors have criminalized large segments of the population, particularly among people of color.

No

3. Many experts say prosecutors overcharging defendants even when they have weak or insufficient evidence unfairly pressures defendants into taking pleas. Would you pledge only to file charges that you are confident the evidence supports? Please give a clear “Yes” or “No” and any explanation.

Yes –

Yes, I plan to charge only what I believe I can prove at trial.

No

4. Contact with the criminal justice system can negatively affect a person's psychological wellbeing and ability to obtain employment; it also often fails to address the underlying cause of crime. Will you work to expand diversionary programs so that, whenever possible, contact with the criminal justice system is avoided or limited? Please give a clear "Yes" or "No" and any explanation.

Yes

I will support diversionary programs, but I also believe that many so-called "Broken window" offense that are often passed on to diversion should probably just be dismissed out of hand.

No

Racial Disparities

5. Will you commit to tracking and working to eliminate any racial disparities caused by decisions made by the Office, including disparities in charging decisions, bail recommendations, diversion program placements, and plea bargains? Please give a clear "Yes" or "No" and any explanation.

Yes

The open data portal I describe above will track and report racial data of both the accused and the victims, so that the public can see how all cases are handled.

No

6. A prosecutor's subconscious and unintentional attitudes about other people based on characteristics such as race often influences the outcome of a case. Will you commit to requiring prosecutors in your district to participate in implicit bias training to reduce the influence of these views in the prosecution of cases?

Yes

I will require all of my staff to undergo training along the line of that provided by the Racial Equity Institute, and I will encourage them to attend other sessions as alumni, to further their understanding of the history of implicit bias and to help teach others how to avoid its influence on the administration of justice.

No

Poverty Penalties and Bail Reform

7. Do you favor changes at the state level to eliminate the use of monetary payment, or “cash bail,” as a condition of pretrial release? Please give a clear “Yes” or “No” and any explanation.

Yes –

I will work to end the practice of cash bail in my county (Buncombe) by working with the judges and magistrates to eliminate the use of bond schedules and shift instead to an evidence-based approach. I will bring motions and join in defense motions to reduce and/or unsecure bonds for persons accused of non-violent offenses, and other cases where it is clear that the accused is neither a flight risk nor a danger to public safety.

No

8. Will you limit requests for money bail and pledge to recommend, for all legally permissible cases, presumptive release of defendants without financial conditions unless there is an individualized showing of substantial and identifiable flight risk or danger to the community? Please give a clear “Yes” or “No” and any explanation.

Yes –

Please see my answer to the question above. Also, the North Carolina bond statute is clear that bond shall be unsecured unless there is that individualized showing of flight risk or danger to the community. I believe that the bond schedule system violates that statute, and I intend to ensure that the statute is followed.

No

9. Will you commit to searching for alternative, less costly diversion programs that will lessen the financial burden on individuals? Please give a clear “Yes” or “No” and any explanation.

Yes –

Justice should not only be for the wealthy.

No

Transparency and Accountability

10. Will you pledge to collect and post online annual statistical information disaggregated by race and gender on felony and misdemeanor charging decisions, convictions, declinations, and diversion program placements? Please give a clear “Yes” or “No” and any explanation.

Yes

The open data portal I describe above will perform these functions and provide that information to the public.

No

11. Will you pledge to publish on the Office website all policies, protocols, and MOUs regarding prosecution guidelines, police-involved incidents, bail recommendations, fines and fees, diversion programs, plea bargains, civil asset forfeiture, immigration considerations, and indigency determinations? Please give a clear “Yes” or “No” and any explanation.

Yes

No

12. Will you pledge to develop and implement a plan to personally, regularly and meaningfully engage and communicate with your community, including communities of color, immigrant communities, community-based organizations and criminal justice reform advocates, and involve them in determining the priorities of your office within the first 100 days of your term? Please give a clear “Yes” or “No” and any explanation.

Yes

No

13. Will you ensure that every stage of the criminal process is clearly communicated to victims in plain language? Please give a clear “Yes” or “No” and any explanation.

Yes

Protection of and effective communication with victims will be a top priority of my office. I will work to ensure that victims in immigrant communities feel safe to work with our office and other law enforcement agencies to see that their cases are prosecuted effectively.

No

14. Will you pledge to assign special prosecutors authorized to investigate and prosecute police killings of civilians, use-of-force cases, sexual assault by law enforcement officers, and other cases of police misconduct as appropriate? Please give a clear “Yes” or “No” and any explanation.

Yes

I believe our local prosecutors are uniquely positioned and qualified to police the police, and I will not hesitate to conduct investigation of these matters in conjunction with, and if necessary, independent of the State Bureau of Investigation.

No

15. Will you pledge to recruit and hire people with criminal records to work in the District Attorney’s Office? Please give a clear “Yes” or “No” and any explanation.

Yes

I believe in second chances, and our office would benefit from the experiences of those who have been on the other side of the criminal justice system.

No

Immigration

16. To protect immigrant crime victims, will you pledge to adopt and promote a written U Visa policy that includes a rebuttable presumption of helpfulness and the direction that U Visa certifications be completed regardless of whether charges were brought, a conviction was achieved, or the case has concluded? Please give a clear “Yes” or “No” and any explanation.

Yes –

This will be an integral part of my plan, described above, to make victims and witnesses from immigrant communities feel safe in talking with law enforcement and my office to work in collaboration toward a just result for their cases.

No

Youth Justice

17. Will you pledge to not seek to remove juveniles to the adult justice system, unless required by statute? Please give a clear “Yes” or “No” and any explanation.

Yes –

Juveniles don't belong in adult courts or prisons.

No

18. Will you pledge to require, when possible, that juvenile trauma histories be considered at all points in the process when evaluating whether a youth should be incarcerated, diverted, or subject to other dispositions? Please give a clear “Yes” or “No” and any explanation.

Yes –

Juvenile courts are separate from adult courts and operate under a different set of parameters for this very reason. Most, if not all, juvenile offenders find themselves in the justice system for reasons not of their own making, and the system should recognize those reasons and take them into account when fashioning remedies.

No

Discovery

19. Will you pledge to require that prosecutors turn over full discovery to the defense pre-indictment? Please give a clear “Yes” or “No” and any explanation.

Yes

Not only is that the professional, statutory and constitutional duty of prosecutors, it's just the right thing to do.

No

20. Do you currently require—and if not, will you implement—Brady training for your prosecutors, which specifically addresses evidence considered exculpatory or that otherwise qualifies as Brady materials? Please give a clear “Yes” or “No” and any explanation.

Yes

No

21. Do you currently have—and if not, will you commit to creating—a process to address willful discovery violations, including Brady violations, by prosecutors in your office? Please give a clear “Yes” or “No” and any explanation.

Yes

Any prosecutor in my office who willfully violates discovery requirements will be terminated from employment in my office. I will have zero tolerance for willful conduct such as that.

No

Death Penalty

22. Will you commit to not seeking the death penalty? Please give a clear “Yes” or “No” and any explanation.

Yes

No –

I am personally opposed to the death penalty for many reasons. I think it's an ineffective and inefficient means of administering justice and redressing wrongs to victims and society. No one has been executed in North Carolina since 2006. I believe that it is on its way out. I cannot think of a case in which I would seek the death penalty. However, I believe pledging to never seek it could be used against me to deprive me of my discretion to not seek it. For example, a state attorney in Florida recently announced she would no longer seek the death penalty, which prompted the Florida governor to remove all the capital-eligible cases from her. Thus, by making her political statement, she actually endangered those defendants more than if she'd just quietly used her discretion to not seek the death penalty. I believe that by retaining my discretion to seek the death penalty, I can more effectively prevent it from ever being sought in cases in my jurisdiction.

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