

North Carolina District Attorney Candidate Questionnaire

As part of our organizations' effort to reduce the state prison population while combating 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, this has been the refrain of this office since I began serving as District Attorney on January 1, 2015.

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, through the overuse of sentencing enhancements and status offenses, however, the Justice Reinvestment Act (2011) has reduced the impact of mass incarceration in NC.

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.

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 have created and expanded diversion programs since taking office and I will continue to do so.

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.

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, we have completed two trainings as of this date, one was a full day training, and we will participate in additional trainings.

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, and I have advocated for the increased use of criminal summons rather than the warrant system.

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.

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 – our diversion programs do not require payment.

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.

No: there is no feasible method for the DA’s Office to gather all of the data and “disaggregate” it for publication. Most of this data is collected and published annually by the NCAOC and public records are maintained by the clerk’s office within the courthouse.

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.

No: while we are one of the few DA’s to have a web portal in the State of NC (through the provision of local County aid), the sheer volume of material subject to disclosure under this item would render the daily work of the office impossible without significant budgetary assistance and expansion of staff. Our staffing priorities are for prosecutors who support the pursuit of justice rather than a “conviction count”, and victim services staff.

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, I did so following my election in 2014 and I will do so again, so that we can move forward together, renewed in our shared commitment for greater fairness and justice.

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.

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.

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 already do so and I will continue to do so.

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.

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.

No: a prospective statement such as this would violate the DA's oath of office. (To answer anything other than "no" would be a violation of my oath.)

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.

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, upon request.

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, I currently require it, and yes, we will continue to provide the training.

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, I will terminate an Assistant District Attorney who violates these procedural safeguards.

Death Penalty

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

No: a prospective statement such as this would violate the DA's oath of office. (To answer anything other than “no” would be a violation of my oath.) However, I have proposed that the Conference of DA's consider advocating for legislation that would create a mitigated range for Class A felony convictions that would include Life with the Possibility of Parole. This modification in State law would create additional dispositional options in these most serious cases.

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