

Philadelphia Coalition for a Just District Attorney

2017 DA Candidate Questionnaire

The Philadelphia Coalition for a Just District Attorney is comprised of a diverse set of groups representing tens of thousands of Philadelphia voters and communities. This coalition is working to hold all the District Attorney candidates accountable to their communities' fundamental need for justice and respect. More about the coalition and its platform is available here: www.phillydaforthethepeople.org

Members of the Philadelphia Coalition for a Just District Attorney include: ACLU of Pennsylvania, Youth Art & Self-empowerment Project, The No215Jail Coalition, Juntos, The Center for Returning Citizens, Asian Americans United, Media Mobilizing Project, New Sanctuary Movement of Philadelphia, Techbook Online, VietLead, Reconstruction, Inc., X-Offenders for Community Empowerment, 215 People's Alliance, Project HOME, Vote for Homes Coalition, Coalition to Abolish Death By Incarceration (CADBI), Frontline Dads, Inc., Color of Change, and DecarceratePA.

Please email your responses to Sara Mullen at smullen@aclupa.org on or before April 15, 2017.

Immigration

1. Do you support Mayor Kenney's executive order prohibiting city authorities from cooperating with Immigration and Customs Enforcement (ICE) without a warrant or court order?

Yes.

2. Despite Mayor Kenney's executive order, ICE still has access to the Preliminary Arraignment Reporting System (PARS), a real-time arrest database used by the Philadelphia Police Department, the district attorney's office, and the courts. Advocates say the data sharing is prone to abuse. What steps would you take to end collaboration with ICE? Do you commit to voting against renewing the city's contract that shares the PARS database with ICE?

I will do whatever I can to keep ICE agents out of the Philadelphia courts. The District Attorney is one of three votes necessary to approve sharing of PARS information with federal agents; I will never vote to approve that contract.

3. How would you work to eliminate the physical presence of ICE from inside our courts and probation and parole departments?

Recent incidents of ICE agents present in local courthouses is a huge problem for our criminal justice system. It's making immigrants, both those here on valid visas and those without them, fearful of interacting with the court system to report abuse or resolve legal disputes. In a particularly alarming example, a woman in El Paso County was arrested after going to the courthouse to obtain a protective order against her abusive boyfriend. That is not who we are.

I would be happy to discuss any legal or administrative ideas you might have to prevent ICE agents in courthouses.

4. What steps would you take to ensure the DA's office consistently takes into consideration the immigration consequences of arresting and/or convicting people at risk of deportation?

I believe that immigrants convicted of low-level offenses deserve a second chance. To that end, I will continue to support immigrant diversion into the ARD program. Moreover, as mentioned above, I do not support the PARS program.

Racial Disparities

1. Do you support stop-and-frisk? Why or why not?

As District Attorney, I will work to end improper and illegal stop and frisks.

Since 2011, the Philadelphia Police Department has operated under a federal consent decree requiring frequent monitoring of pedestrian investigation practices, also called "Terry searches." Yet for years, pedestrian stop and frisks that appear to be conducted without probable cause targeting African-American and Latino residents in a discriminatory fashion have persisted. In the first half of 2015, the ACLU found that a third of all stops and 42% of frisks were conducted without reasonable suspicion that criminal activity had occurred. Sixty-nine percent of those improper stops targeted African-Americans in addition to 57% of those frisks. Those figures are alarming and comprise way too many actions taken on questionable legal grounds.

I will use my influence as District Attorney to push to end searches conducted without probable cause and will decline cases that come from such searches. Additionally, I will institute a zero-tolerance approach to racial profiling that will be communicated clearly to law enforcement officials. Finally, I will encourage the police department to publish summaries of all traffic and pedestrian stops to increase the transparency of the process. By implementing these reforms, we can work to end improper and illegal stop and frisks.

I have written the most comprehensive criminal justice reform plan in the race, which is available at:

<https://www.michaelforphiladelphia.com/priorities/>

2. Currently, people of color make up over 70 percent of the city's jail population, though they only account for 54 percent of Philadelphia's population overall. What steps would you take to reduce these disparities?

Too many people of color are incarcerated in Philadelphia, many for low level offenses and minor infractions. I believe we can address this problem by changing the priorities of the DA's office and seeking alternatives to jail and prison.

These disparities start early. As mentioned above sixty-nine percent of stops made without probable cause and 57% of illegal frisks targeted African Americans. I will work to end illegal stop-and frisks and institute a zero-tolerance policy for racial profiling.

Second, our cash bail system disproportionately burdens disadvantaged communities and people of color. In 2016, more than half of inmates in Philadelphia jails were awaiting trial. As I detail below, I will work to end our discriminatory cash bail in favor of the bail system they use in Washington, DC.

Third, I will work to change the focus of the office. Currently, the DA's office targets low-level offenders in an effort to boost statistics instead of prioritizing going after the criminal organizations that are really

harming our communities. I have spent most of my life going after the big guys. My office will go after white-collar crime and fraud, take on large narcotics organizations, and focus on building high-level, quality prosecutions.

Finally, as I will again lay out in greater detail below, I will build a meaningful and robust Conviction Integrity Unit to overturn the bad prosecutions and convictions. The unit will look at cases of bad prosecutions and bad convictions, whether that involves "actual innocence," prosecutorial or police misconduct, or racial profiling.

Right now, issues of race and the criminal justice system are disturbingly intertwined. Reforming a discriminatory system will take the tireless work of generations of reformers. I helped found the Domestic Violence Unit 3 decades ago and fought systemic sexism and intransience every single day. We have gotten so much better in dealing with those issues as a society since then, but we still have a long way to go. No one can fix these problems easily or comprehensively as District Attorney. But I believe that through innovative criminal justice reform and constant, active effort, we can reduce our existing disparities and lay the path towards a better future.

You can read more details about my plan to reform the criminal justice system here:

<https://www.michaelforphiladelphia.com/priorities/>

3. The city of Philadelphia is contracting with a Penn criminologist to design a risk assessment computer algorithm meant to determine who is at high risk for re-arrest if released pretrial, and who would not be a "danger to the community." If algorithms make their predictions based on historical data, then they are at risk of embedding decades of racist criminal justice data into our pre-trial supervision decisions. Would you support community members being involved in the design, validation, and continued oversight of a risk assessment algorithm of this kind?

Racial bias should have no place in our criminal justice system. I think that any assessment of pre-trial risk should rely on the specifics of each case instead machine-based systems that have been shown in some cases to be biased against minorities. I think we can look to the example of the cash-free bail system they use in Washington, DC. In Washington, case workers analyze risk factors individually and meet with defendants to determine their likelihood of re-arrest if an individual is released pretrial.

About community input, I believe the District Attorney's office should work closely with the communities it serves. I am going to create a deputy-level position to act as a liaison to community groups and organizations like your coalition members on ways we can make our criminal justice system better and fairer for everyone.

Transparency and Accountability

1. Would you agree to appoint an independent prosecutor to investigate shootings involving police officers?

I will go further than an independent prosecutor. I will create an entirely separate division of the District Attorney's office that is administratively and physically walled-off from the rest of the office to investigate and prosecute instances of police violence and misconduct. This unit will be removed from day-to-day interaction with police, probation officers, or other political influences and will be set up so it cannot be pressured to act in one way or another by outside entities within the office. Moreover, where

possible, I will push cases up to the Pennsylvania Attorney General's office to even further minimize conflicts of interest.

2. Would you agree to make all policies of the district attorney publicly available on the office's website, including those regarding charging and plea bargaining decisions, and would you agree to post quarterly data regarding all critical decisions made by the DA's office, including charging, pre-trial recommendations, plea bargains and sentencing recommendations, including demographic information?

As a public institution, the District Attorney's office should strive to be as transparent as possible. I will seek to publish comprehensive crime statistics proactively as long as they don't undermine the integrity of investigations, including prosecutorial decision making and demographic information.

3. How would you involve neighborhoods and community groups in determining the priorities of the DA's office?

Community relationships are vital to the work of the District Attorney's office. I want my office to be as open and accessible as possible to Philadelphians in every part of the city.

First, I will create a new deputy-level position to act as a liaison with community organizations. Philadelphia has an invaluable network of community organizations dedicated to making this city better and the District Attorney's office should work in partnership with them. This new liaison will work closely with local organizations focused on criminal justice reform, reducing gun violence, and other groups working to keep our citizens safe and improve our community.

Second, I will create an advisory board to advise the DA's office on community issues and concerns. Community leaders, advocacy organizations, and the District Attorney's office should be communicating openly and in conjunction to craft solutions to the issues we face. I will create an open forum through an advisory board populated with representatives from all of these groups that will advise the District Attorney's office on community issues and concerns.

Finally, I will assign every Assistant DA to small groups and neighborhoods throughout the city to make our office more accessible to people, whether they are registering a complaint or seeking counsel about problems in their neighborhood. ADA's would work with not just neighborhood groups, but nonprofits and community groups focused on issues of criminal justice.

Decarceration

1. Do you support ending the use of cash bail in Philadelphia, and for which people accused of what kinds of crimes? If so, what would be the timeline for these reforms?

Yes, ending cash bail will be one of my top priorities as District Attorney. Our current system of cash bail is failing. In Philadelphia, 51% of individuals who received a bail about of \$500 or less were able to post bail within three days and a full 25% of defendants charged with a misdemeanor were unable to post bail at all. That is wrong.

I would work with judges to implement a cash free system like the one used in Washington, DC where detention decisions are based on risk of harm to the community and risk of flight, not wealth. In 2015,

91% of defendants were judged safe to be given pre-trial release, with most required to comply to terms including drug testing and phone or in-person check-ins with case officers. Roughly 10% of all defendants were given pre-trial release with stricter monitoring through methods such as house arrest or GPS ankle monitors.

While the District Attorney's office does not set bail and cannot unilaterally change policy, we can affect change quickly through the requests for bail we make of judges and by putting the influence of the office to good use with other city policymakers to prompt a system-wide change. That process would begin on day one.

You can read my plan to eliminate cash bail here: <https://www.michaelforphiladelphia.com/priorities/>

2. Will you work to end the practice of overuse of electronic monitors as an alternative to incarceration, which only creates prisons in peoples' homes, often at their own expense, providing profit to private companies?

My first focus is on eliminating our discriminatory cash bail system. In 2013, Kareem Chappelle couldn't afford a \$600 bail fee. He spent months in jail, losing his home, his job, his car, and not being able to spend the holiday with his family. There are hundreds of people sitting in jail cells because they can't up with \$1000 in bail. We need to get them out of jail and back to their lives as quickly as possible.

The goal of these reforms is to allow people to continue living their lives—overuse of house arrest doesn't help keep people from losing their homes and jobs. I plan to base my cash free bail system off the system in place in Washington, DC. In Washington, the vast majority of defendants given pre-trial release simply check in by phone or in-person with case workers and only 10% of defendants are required to comply with house arrest or GPS monitoring.

3. Right now, individuals on probation or parole who are arrested are not eligible for release before their trial. What steps would you take to reform the current use of detainers to incarcerate people awaiting trial?

I only support detainers for the most serious, violent offenses.

4. The MacArthur grant received by the city of Philadelphia has a goal of reducing the population in jail by 33 percent within three years. Are you committed to this goal? What is your plan to achieve this goal?

Yes, our criminal justice system is broken. Mass incarceration is a huge problem in Philadelphia and I believe the MacArthur grant is an important opportunity to reform our criminal justice system. Moreover, I believe that goal is imminently achievable through hard work and reform.

The District Attorney's office has been going after the wrong people. Right now, the District Attorney's office goes after low-level offenders and minor infractions to boost statistics. Instead, the office should prioritize building meaningful cases against the dangerous criminals and organizations that are truly harming our communities. That also means reforming the charging office to focus on better cases.

Second, we need to seek better alternatives to incarceration. The LEAD (Law Enforcement Assisted Diversion) program in Seattle offers low-level offenders community based service and treatment in lieu

of prosecution and is now being adopted in cities across the United States. By expanding the use of pre-booking diversion programs, we can keep many low-level offenders out of the jail system entirely.

Third, as detailed above, we need to reform our broken cash bail system. Last year, the Philadelphia Inquirer reported that 60% of Philadelphia's jail population was inmates awaiting trial. Ending cash bail and seeking alternative pre-trial arrangements will go a long way towards reducing the jail population in Philadelphia.

Finally, I will strengthen the Conviction Integrity Unit to review and overturn bad convictions. I will model the unit on the successful review board created by the Brooklyn District Attorney's office and will give it the resources and political independence to push for thorough and meaningful reviews.

Through sensible, innovative reforms to our criminal justice system, we can dramatically reduce our jail population. Your coalition members will be invaluable partners in that goal.

5. Will you decline to prosecute low-level offenses committed by people who pose no harm or threat to the community?

Too many people are in Philadelphia jails for low-level offenses and minor infractions. As I've laid out above, the District Attorney's office should prioritize going after the dangerous criminals and large organizations that are truly harming our communities.

As District Attorney, I will seek to divert people accused of low-level offenses away from the criminal justice system. As mentioned above, the Seattle LEAD program is a national model for pre-booking diversionary programs and is something I will seek to implement in Philadelphia.

6. What are your plans for expanding the use of diversionary programs?

As detailed above, I believe diversion programs are an important alternative to incarceration. I would seek to expand pre-booking diversion programs based on Seattle's successful LEAD program. LEAD offers low-level offenders community based service and treatment in lieu of prosecution.

7. Some state legislators have proposed abolishing life without parole sentencing and instead allowing parole eligibility once the individual has served 15 years. What is your position on this proposed legislation?

I would lobby for sentencing reform in Harrisburg. Life without parole should only be left on the table for extraordinary crimes.

8. A bill has been introduced in the state legislature that would reinstate mandatory minimums for some crimes. Do you support bringing back mandatory minimums?

No, I believe that prosecutors and judges should have the discretion to examine the specifics of each case. The one exception to that is Brad Fox, which seeks meaningful sentences for repeat straw purchase violations. Gun violence, often perpetrated with illegal firearms, is a serious problem in Philadelphia. Mandatory minimums on straw purchases and illegal handguns are something I would support in Harrisburg, as would many reformers.

9. The Pennsylvania District Attorneys Association often lobbies for tough-on-crime laws in the state legislature. As the Philadelphia district attorney, how would you attempt to influence the association's agenda?

"Tough on crime" is a rather broad description, and I would be uncomfortable taking a blanket position on laws. I want to reform our criminal justice system; end cash bail, reform civil asset forfeiture, and refocus the office away from the statistics boosting low-level offenses of the past. As District Attorney, I will be an advocate for laws that make our criminal justice better and more fair. And those are the policies I will support and advocate for at the state and national levels.

In cities from coast to coast, we are seeing a revolution in criminal justice reform that is finding ways to keep people safer and make the system fairer. It's time for these reforms to come to Philadelphia.

10. Philadelphia has a Post-Conviction Review Unit, but it was only staffed with four people this February. What are your plans to fully staff this unit with independent lawyers who have both defense and prosecutorial experience? And what do you think the purview of the unit should be – only looking for cases of "actual innocence" or also looking at prosecutorial or police misconduct as it impacts the conviction?

The current process of conviction review is unacceptable. The District Attorney must represent the public trust and every effort must be pursued to ensure that innocent Philadelphians are not kept behind bars. I will model our review board on the one created by the Brooklyn District Attorney's office. I will ensure this unit has adequate resources and will operate with independence and a free hand from internal or external political pressures. The unit will look at cases of bad prosecutions and bad convictions, whether that involves "actual innocence," prosecutorial or police misconduct, or racial profiling.

I have written about this in detail in my Criminal Justice Reform plan, which can be downloaded here: <https://www.michaelforphiladelphia.com/priorities/>

Youth Justice

1. Do you support housing youth under 18 in adult jails? Will you commit to removing youth from Philadelphia adult jails pre-trial?

No, juveniles and children should not be housed in adult jails.

2. Do you believe that children should be prosecuted as adults? What steps will you take to change the current district attorney's practice of trying young people as adults?

In virtually every case, I do not support the practice of charging juveniles as adults. But in instances of incredibly violent and hateful crimes such as the Charleston Church Massacre, I believe this option should still be on the table. I will create a clear policy for the Charging Unit that juveniles should not be tried as adults.

3. What will be your strategy for managing the re-sentencing hearings for people serving juvenile life without parole, and will you commit to not seeking LWOP (life without parole) either in re-sentencings or in new cases involving juveniles?

In 2016, Philadelphia was home to at least 9% of all juveniles in the entire country sentenced to life without parole – a punishment that no other Western nation currently applies. I believe we must speed up re-sentencing for individuals unconstitutionally sentenced to life without parole as juveniles. While I will use current Pennsylvania sentencing law that proscribes a sentence of between 25 and 35 years to life for juveniles convicted of first degree murder as a guideline, my office will examine the merits of each case and consider individual factors in offering plea deals or in resentencing before a judge. To manage this process, I will designate an assistant District Attorney to lead a task force that will work with judges to move these cases through the judicial process in a timely and efficient manner so that no defendants languish unduly on an unconstitutional sentence. This task force will also lead the review of each case and recommend a sentencing request or plea deal for each defendant based on the unique factors of the case. And the task force will be given the staffing resources it needs to ensure that cases are not caught in limbo because of delays on the part of the District Attorney's office.

Re-entry

1. How would you support people given LWOP as juveniles in re-entering their communities?

People reentering society from a long prison sentence need as much understanding and support as we can provide. This comes back to my commitment to community involvement and accessibility. As detailed above, I will create a new deputy-level position to act as a liaison with community organizations committed to criminal justice reform, including reentry. We have an amazing network of community organizations in Philadelphia, and the District Attorney's office must work closely with them for the good of Philadelphians.

When I helped found the Domestic Violence Unit, I worked, not only with the judicial system, but with a network of community groups and organizations to provide resources and support for victims of domestic abuse. That experience has given me a great appreciation for the ways we can work together, as a community, to support each and every Philadelphian.

2. Do you support re-entry programming that seeks to reduce recidivism? How would you engage returning citizen-led re-entry programs in this effort?

Yes, reentry programs are a vital resource for Philadelphians, from both a humanitarian and public safety standpoint.

As detailed above, my District Attorney's office would work closely with community groups and organizations to support people who have served their time.

Civil Asset Forfeiture

1. A 2015 study of civil asset forfeiture in Philadelphia found that almost one-third of cash forfeiture cases involve money owned by people who have not been found guilty of a crime – about 1,500 Philadelphians each year. Will you adopt a policy requiring a criminal conviction before forfeiting property? If not, would you agree not to pursue forfeitures of property less than \$5,000?

Our current civil asset forfeiture system is ripe for abuse. Philadelphians risk losing their homes over small infractions, even when they weren't directly involved in a crime. In a particularly horrifying example, Elizabeth Young is fighting to keep her home because her son was caught with less than \$100 worth of marijuana. That is wrong.

We need to reform our civil asset forfeiture system so that innocent Philadelphians are not targeted or abused. I personally believe that there are some cases where civil asset forfeitures are still appropriate without a criminal conviction, but we should have a meaningful review process to ensure that forfeitures are not abused. When I was in the Attorney General's office, we sometimes pursued high level asset forfeitures against narcotics organizations to disrupt their operations, even if we hadn't built the full case for a criminal conviction. We focused on the large organizations that were harming our communities; not low-level infractions. I was horrified when I visited the Philadelphia District Attorney's office and saw hundreds of cases on the wall for amounts of 50 or a hundred dollars. I will not pursue forfeitures valued at less than \$500 and will use a portion of forfeiture money on programs to help drug users rather than prosecute them.

Death Penalty

1. Would you be willing to commit to not pursuing the death penalty during your tenure in office?

I am against the death penalty except in the most extraordinary circumstances. I think the death penalty is applied far too often in the United States, but would retain the option for cases such as the Charleston Church massacre.

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