

# Candidates for District Attorney

## Positions on Pre-Trial and Ending Cash Bail

In a city with one of the highest per capita jail populations in the United States, with thousands held for months on unaffordable cash bails, **The Philadelphia Coalition for a Just District Attorney** came together to hold all the candidates for Philadelphia District Attorney accountable to our communities' fundamental need for justice and respect. Find a full list of coalition members at our website.

Our coalition sent all 8 candidates a list of 27 detailed questions on urgent issues around mass incarceration, from immigration and racial disparities, to transparency, decarceration, youth justice, and more. Community members asked them 15 more at a 500+ person forum on April 18th, a forum where all candidates were invited. With every question, the Coalition offered every candidate a chance to demonstrate their commitment to principles of decarceration, principles reflected in our platform.

We have presented their answers below - for each candidate who responded to our questionnaire, attended our forum, or both. This documents shows where the candidates stand as of now, to the best of our knowledge. As the primary and the general election near, we hope you will use this information to contact the candidates and make sure they adhere to the policy platform we've published at [phillydaforthethepeople.org](http://phillydaforthethepeople.org).

You can also read their responses to the full questionnaire, if they returned them to us, by visiting [phillydaforthethepeople.org/#facts](http://phillydaforthethepeople.org/#facts), and watch the forum in full.

## CASH BAIL QUESTION - FROM THE FORUM

"My name is Josh Glenn - I was charged with aggravated assault as a child, and lost 18 months of my life waiting for trial on a cash bail my family couldn't afford. Eventually the DA dropped the charges - but I missed my high school graduation and so much more."

**Do you support ending cash bail for all offenses in Philadelphia? If so, what is your plan and timeline for ending the use of cash bail and how will you ensure that significantly fewer people are detained in the city's jails pre-trial - without a massive expansion of electronic monitoring, which creates open-air prisons in our own homes and neighborhoods?**

## PRE-TRIAL QUESTION - FROM THE QUESTIONNAIRE

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

**2.** 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?

### Teresa Carr Deni:

"Philadelphia has been ripping off people with the bail system for as long as I can remember. It started out with them taking 30% of whatever bail was deposited - so, not that long ago that they stopped doing that. The second situation that needs to be addressed is that the bail magistrates are currently - as are the DAs, and the PDs, and the defense attorneys, using guidelines that are more than thirty years old. Those guidelines are still in effect - and that's why, I believe, they're still being used. What can you do with people who are released over and over, and keep coming back? At some point, you keep them in - or keep coming back, or never come back - you've got to keep them in, at least to get their cases resolved. But these other problems are legislative - those bail guidelines have to be upgraded, and all nonviolent crimes should be very low bail or no bail at all."

**Did not respond to Questionnaire.**

### Tariq El-Shabazz:

"First of all, let's deal with the misnomer: bail is always been a situation based on whether or not you show up at court, or whether or not you're a danger to the community - that's nothing new. The basic principle behind the system that he's talking about is about the point system, is that it's systemically racist - because it deals with economically undermined individuals, it deals with marginalized people, it deals with black and brown people - that's the reality. So you have to have a better system of analyzing people. The only thing you're going to do there is hold people in. If you're asking me for non-cash bail with respect to low level drug offenses, and petty offenses, absolutely. No doubt about that. If, in fact, we're talking about serious offenses, then there is going to be some bail - there's no doubt about that. But, if it is bail, and the case is continued, based upon the inept, or the inability, or the unavailability of the prosecutor's ability to go forward, then we need to revisit whether or not the person still should be in bail if they're unable to make that. To say that we're going to let everyone out, on a non-cash-bail, is not only disingenuous, but it's rhetoric that is going to be said during the course of a campaign. I know that subject because I've dealt with it for a year and a half on the Criminal Justice Reform Committee. We came up with the situation of cash bail, no cash bail, and day reporting centers. That is not nothing new, but now it's new on the campaign trail.

As I understood {Joe Khan's} comments I think he was agreeing with me - that chart system, that was described, that that would be racially biased, and that it would be systemically racist. No doubt about it. But also since I did have a little other time - if we talk about that issue in DC - if we talk about that program and we tout it, that is federally funded. They have millions and millions of dollars that they pump into that DC program, and that is not existing in Philadelphia at all - and I have to submit to you, now with 45 in office, we're going to see how long that lasts."

**Did not respond to Questionnaire.**

### Beth Grossman:

**Did not attend the forum.**

**Did not respond to Questionnaire.**

### Joe Khan:

"So, when I got out of law school to go to the District Attorney's office, I didn't go there to prosecute low-level drug offenses, I went there because I wanted to prosecute sexual assault, child abuse, and domestic violence. And I had so many cases where there were dangerous people, who had not only committed and were charged with committing sexual assault, but then while they were on bail, they committed more sexual assault, time and again, and they were able to use their privilege and their wealth to buy themselves out of jail, because we had a system that looked at a grid, and said, "Here's where we're going to put the money, the price-tag for you getting out." At the same time, there were people who had not been convicted of any crime, who are not dangerous, who were sitting, toiling away in a jail cell, because they were poor. Because our jail cells in Philadelphia, for pretrial cases, are an intersection of race and poverty. I think - when I got to the US Attorney's office, I learned, we ask two questions: "Is this person too dangerous? Or too much of a flight risk to get out?" And if the answer was no, we got them out. It's that simple. There's no reason we can't have that system in Philadelphia. I don't agree with Mr. Untermyer's proposal, and Mr. El-Shabazz is absolutely correct, in putting aside the risk that it injects racism again into the system, it's coming from a person whose only complaint about the bail system, when he ran for DA as a Republican, was that it was too lenient on the poor. And that we weren't getting enough of their money when we gave them bail. I think it's outrageous for him to propose this and to act like he's in favor of reform when we need real reform, that makes sure no one sits in a jail because they are poor."

**1.** I am keenly aware of and concerned about the concept of "open air prisons" in which people are released from custody but are not really free. Electronic monitoring has its place in some cases, but is not a cure for our problem and should not be overused. I am especially suspicious of "solutions" that incentivize profit to private companies. More broadly, I plan to use my power as D.A. to investigate and take on the prison-industrial complex.

**2.** While we should be smarter about how and when we use pretrial detainers for people on probation or parole, we will achieve better results by reducing the number of people on probation. For example, I have called for an end to prosecuting the lowest level drug offenses, which would reduce the overall number of people on probation or parole. More broadly, we currently have too many people on probation because we - judges, prosecutors, and defense attorneys alike - have over-relied on its use. My Assistant District Attorneys will not continue the trend of recommending long probationary sentence for so many classes of offenses. I would seek out the input and support of judges and defense attorneys to work together to reverse that trend.

### Larry Krasner:

"This is in many ways, a question about experience. I've been doing these bail hearings for thirty years, and it's also an experience in DC - the reality is, this has been going on successfully in the District of Columbia for decades. By law: they are not permitted to make cash a condition of bail; it's been going on all the time. It works extremely effectively: 88% of the people who are released make it to court. I don't really see what's controversial about that. You shouldn't have people because they are poor are sentenced from the day they go into custody, and because they are sentenced from that day and will serve that sentence, even if they are acquitted, they are coerced into taking a guilty plea, because they already served the sentence. I mean - every bit of statistics shows us if you're too poor to pay the bail, what's really going to happen to you, is you're going to serve the sentence from day 1, you're more likely to agree to plea guilty, you can't help your lawyer, you're more likely to be convicted. It is totally unacceptable, and the fact is, in Kentucky, in the District of Columbia, these systems have worked extremely successfully. I do not know why this is controversial; we will go directly to a system of no cash bail as quickly as we can."

**1.** While electronic monitors can provide a less restrictive means of custody than incarceration, less costly to the state and less costly to family and community integrity, these they should not be overused. I see no reason why anyone should profit from them just as I see no reason why anyone should profit from jails and prisons. I am against all profit-based forms of restricting liberty in criminal justice and will oppose them.

**2.** Unfortunately, violations of probation and parole are a constant issue in Philadelphia. Judges sometimes view a positive drug test for cannabis (or a moderate period of failing to report or a period of non-payment or unemployment) as the equivalent of a serious violation and react reflexively rather than rationally. As District Attorney, I will carefully evaluate violations for their significance and recommend no hearing and/or no judicial finding of violation where the violations pose no public danger. Ultimately, public resources cannot be wasted on unnecessary incarceration when they are so much more effective in reducing crime via prevention (e.g. education, addiction treatment, job training, etc.) in the long term.

### Rich Negrin:

"I believe we very much need to reform our bail system. It is terrible that so many of those accused of non-violent crimes sit in jail because they cannot meet bail requirements. I will bring in experts in the first 100 days to offer an assessment of our bail system, and instruct DAs to work within their power to make bail recommendations that reduce the number of non-violent offenders who sit in jail because of inability to make bail." \* **Mr. Negrin provided this answer in writing to a similar question on the questionnaire, as he did not attend the forum.**

**1.** I believe that electronic monitors can be a useful tool in certain situations, but their overuse is another symptom of the privatization of our criminal justice system. I do not believe that people should be responsible to pay the city for such things. I would advocate strongly for further use of service based sentences that mandate that offenders partake in community service, rehabilitation and other means that create more productive members of society.

**2.** I believe that anyone who is awaiting trial for a non-violent crime should have a path to release pre-trial. Detainers should only be used, as blanket rule, for individuals who have committed violent offenses or are significant risks for flight or to continue committing crimes during the pre-trial people.

### Jack O'Neill:

"I absolutely support ending cash bail - so how do we get there? First of all, about two years ago, Councilman Jones went down to DC, learned about their program, which as Mr. Krasner said, has an 80% success rate in getting people to come to court. So, it's a very successful program, and started to promote it here in Philadelphia. So, the problem is, it's taking a long time and logistically, it's difficult. The next thing is, that Judge Neifield, a few months ago, started a program for bail review. This is a great program. The idea is, if a person gets a bail of less than \$50,000, and doesn't pay it in two days, the assumption is that, correctly, that the person can't pay what a lot of other people could, because it's \$50,000 at 10%. So those get reviewed, and the bail, in most cases, gets dropped. The return on that is 92.3% success rate - so that's even better. But what do we do to make it even faster - because it's taking a long time. What I would do as District Attorney is instruct my District Attorneys at arraignment that where people meet the same kind of classifications as they do when they get in front of a judge Neifield and get their bail lowered, is just as for zero bail at that time; what that would do is allow a lot more people to be released a lot quicker."

**Did not respond to Questionnaire.**

### Michael Untermyer:

"This is a classic case of how our bail system's not working. Our bail system is the worst in the country. I talk about the case of Kareem Chappelle. He was in jail for six hundred and three dollars. He spent the holidays in jail, he lost his car, his home, and his job. It's simply an unfair result. But over a thousand people, incarcerated in Philadelphia, who couldn't come up with less than a thousand dollars in bail money. Half of the people whose bail is set at five hundred dollars, can't come up with their bail money for at least three days. Our system is simply unfair and discriminatory. So: one, I think we should have no cash bail. From the start of my campaign, I've referred to the system in Washington, DC. As part of my campaign, I went through all the different models, and all the different systems in the country. I think the best is in Washington, DC. For years, they've had no cash bail. They use a point system. They look at your risk of flight from the community, and your risk of danger to the community. And if you're above a certain point score, you'll be basically in custody until the time of your trial. And if you're below a certain point score, you're released - conditionally. Whether it's wearing an electronic monitor, whether it's checking in to a day (reporting) center, whether it's getting treatment for a health problem, for a drug problem - whatever. But you are not in jail. Thank you."

I've been talking about bail reform for seven years. Joe {Khan's} been talking about it for six months. In terms of my running for District Attorney, Joe decided to run way before I did. I listened to what he said, he was vapid, he had no ideas at all, basically because he wasn't showing any real ideas in the first place, that I decided to run. I've been talking about reducing gun violence, bail reform, having a vertical system of prosecution: I've been doing this for seven years. Joe's just taken it on the past few months. And frankly: he's really copying ideas I and Larry have in this whole campaign. "

**1.** " 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."

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

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