

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 have publicly called on all Democratic D.A. candidates to adopt a pledge to prevent collaboration with ICE on deportations, and have specifically pointed to the PARS data as an example of data that should stay out of the hands of ICE. As D.A., I will not cooperate in any way with Donald Trump's immigration authorities, and will strongly oppose efforts to share PARS data with ICE.*
3. How would you work to eliminate the physical presence of ICE from inside our courts and probation and parole departments? *As D.A., I will strongly advocate that all partners in city government resist Donald Trump's racist, bigoted immigration agenda. My father, a Muslim immigrant who dedicated his career to serving Philadelphia, is proof that Trump's approach is wrong. I will use my position and experience to educate, persuade and influence others to prevent our local government from becoming an enforcement arm of federal immigration policy.*
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? *As DA,*

I will not use an individual's immigration status as a threat to obtain a conviction or cooperation. And as the son of a Pakistani immigrant, I recognize the harm that families would suffer if a loved one is deported. I have built my career as prosecutor on outstanding relationships with defense attorneys, and where defense counsel raises concerns about the risk of deportation for an individual client, my Assistant District Attorneys will appropriately factor that risk in seeking a just outcome. While we will not give special treatment to rapists and murderers who happen to be undocumented, we do not want to see communities torn apart because of low level offenses that can be resolved through alternatives to prosecution or arrest.

Racial Disparities

1. Do you support stop-and-frisk? Why or why not? *I oppose unconstitutional stop-and-frisk policing. In my early years as an Assistant District Attorney, I was often assigned cases where police officers stopped, frisked, and arrested people with guns or drugs. Part of my job was recognizing instances when stops were not supported by reasonable suspicion. Regardless of whether or not these mistakes were driven by bias or malice, I dismissed cases based on unconstitutional searches and seizures. That doesn't happen enough today. There is a toxic culture of winning-at-all-costs that has clouded the judgment of the line prosecutors who need better leadership from a District Attorney who will make sure everyone is treated fairly. The term "stop and frisk" is a constitutional standard that describes certain civilian interactions with law enforcement – it cannot and should not be a policy for how law enforcement chooses to interact with the communities they must protect and serve.*
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? *Systemic racism in this country is reflected throughout American life, including in law enforcement. Communities of color in Philadelphia are seeing the racial disparities evident in income, education, and employment being reflected in our law enforcement practices. We need better screening, training, and supervision of individual officers, so that implicit and explicit biases don't play a role in who sits in our jails. We must be vigilant in guarding against unconstitutional stop-and-frisk tactics, which have traditionally been most aggressively pursued in minority communities. And I have made lowering the incarceration rate a top campaign priority. Our city's jail population is largely the result of a broken cash bail system, which I seek to eliminate. Not only does are cash bail system disproportionately impact people of color in practice, it is designed to punish the poor. During my decade at the U.S. Attorney's Office, not one defendant that I charged ever sat in a jail cell simply because he or she*

could not afford to make bail. To the contrary, we only detained people who were too dangerous or too much of a flight risk in a serious case. For everyone else, we made sure to find a set of conditions that would reasonably protect the community and assure the defendant's release. That's the standard that should govern our local courts, and I have committed to moving towards it as soon as I become DA.

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? *I am skeptical of relying on such an algorithm. If in fact we do use such a program, community members should absolutely be involved in the design and implementation of a program that assesses risk of re-offending. Ultimately, no algorithm can substitute for the individual review that should be used in assessing each individual defendant.*

Transparency and Accountability

1. Would you agree to appoint an independent prosecutor to investigate shootings involving police officers? *I am the only candidate in the race who has publicly and consistently called for independent review of police shootings as well as police corruption and misconduct generally. As the only candidate who was a corruption-fighting federal prosecutor, who has gone after politicians, lawyers and cops who have crossed the line, I believe that with respect to corruption and government accountability, the first area for needed reform at the DA's Office is its investigations of police officers.*
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? *I have been a strong advocate for more transparency and accountability in the D.A.'s Office specifically, as well as the criminal justice system more broadly. In the federal system, the U.S. Attorney manuals were publicly available and on-line, and I would like to follow a similar model in Philadelphia. The DA's Office is a public office and must be accountable to the people, so I support sharing information on critical decisions such as the ones described above. At the same time, given the nature of the office's work, we must balance the need for transparency with privacy and safety protections for defendants, uncharged persons, victims, witnesses and other innocent parties.*

3. How would you involve neighborhoods and community groups in determining the priorities of the DA's office? *As D.A., I will be accountable to every community in Philadelphia. I am a lifelong Philadelphian, who will listen to and work together with community leaders on specific issues affecting their neighborhoods. I believe that partnering with the community is necessary to achieve key reforms. As just one example, I am a strong believer in expungements as a tool to help ex-offenders move on with their lives, and agreed to dozens of expungements during my time as an Assistant District Attorney. As D.A., I will commit to working with elected officials and community leaders in Philadelphia to hold regular expungement workshops in neighborhoods across the city.*

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? *I will lend the full weight of the office to ending our broken cash bail system in Philadelphia. Under my plan, judges will detain defendants only when no set of release conditions can reasonably assure the defendant's appearance or the safety of the community. The DA cannot make this change unilaterally, but must work collaboratively with City Council and others to enact a new system. If I win the primary election on May 16, I will begin assembling a transition team on May 17. I will begin the process of lobbying key stakeholders and policymakers to implement changes to the cash bail system before my first day as D.A.*
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? *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.*
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? *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.

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? *I am committed to reducing the overall incarceration rate, including Philadelphia’s overcrowded jail population. There are a number of key steps that must be taken. First of all, we must curb the senseless “drug war” tactics that have helped lead to our current over-incarceration epidemic. I am the only candidate who has called for an end to the lowest-level drug prosecutions, because addiction should be treated as a public health issue, not a crime. As discussed, I will replace our broken cash bail system, so that race and poverty do not dictate who sits in our jails. I will also be a vocal and vigilant opponent of overly aggressive police practices, such as unconstitutional stop-and-frisk policies. Finally, I will also make re-entry programs for returning citizens a top priority. I will work with Mayor Kenney to enhance programs that enable former prisoners to become constructive and productive members of our community, including improving job placement opportunities. As a federal prosecutor, I worked with returning citizens in the STAR program, which is a national model for an effective reentry court program. Successful re-entry programs reduce the incarceration rate, ensure safe communities, and help keep families together.*

5. Will you decline to prosecute low-level offenses committed by people who pose no harm or threat to the community? *As DA, I will end the prosecution of the lowest-level drug offenses. Additionally, I will use prosecutorial discretion to bring misdemeanor charges instead of felony charges when appropriate. Nonviolent car theft offenses, for example, can be charged as a third degree felony or a second degree misdemeanor.*

6. What are your plans for expanding the use of diversionary programs? *As an Assistant District Attorney, I diverted hundreds of addicts and nonviolent offenders into treatment options and alternatives to prosecution, because I understand the gravity of consequences that come with convictions and incarceration. As we build on and expand the current diversionary programs to divert low level offenders from jail, we should make better use of community based solutions. Philadelphia is a city of neighborhoods, and our diversionary programs should better draw upon that strength so that we put people on the path to success. And in particular, as I commit the DA’s Office to making human trafficking a top priority, I will seek to expand*

diversionary offerings for sex workers and victims of trafficking who may also be defendants in criminal cases before the DA's Office. And I have called for an end to the prosecution of the lowest level drug offenses so that we can adopt a system of law enforcement assisted diversion that begins diversionary treatment before people are even charged with a crime.

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 am against life without parole for juveniles. But with respect to adults who are convicted of the most serious degree of homicide – first degree murder – it would be wrong to retroactively grant parole eligibility after 15 years. Parole eligibility is a painful process for victims, especially families of murder victims, who must be included in our dialogue about reforming our criminal justice system. As DA I will be committed to community-based solutions that help prevent violent crime before it happens. And I look forward to working with legislators who share my goal of reducing the unacceptably high rate of incarceration throughout Pennsylvania.*
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? *I think that our previous mandatory minimum policies for drug offenses were wrong-headed and have been a significant contributor to over-incarceration. I do not support their reinstatement. That said, I am not opposed to reasonable laws that require jail time for certain crimes where the need for incarceration is important, such as child abuse and gun violence. These laws do not need to be excessive, but they can be an important check against unfair sentencing by judges who refuse to treat similarly situated individuals the same. I am particularly weary of ruling out mandatory minimums in sexual assault cases where privileged individuals, such as the perpetrator in the infamous Stanford rape case, are given overly lenient treatment by judges who are uncomfortable imprisoning offenders with whom they may identify.*
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? *I will not be beholden to the Pennsylvania District Attorneys' Association, and will lobby against ill-advised criminal justice policies, regardless of that organization's official positions. I will also vocally advocate for a more progressive agenda within the Pennsylvania District Attorneys' Association. For example, reforming our juvenile justice system (as discussed elsewhere in this questionnaire), will be a top legislative priority. I view the PDAA as a potential partner in this effort, and securing their support can help extend our progressive*

vision to more conservative areas of the state, not just within Philadelphia's city limits.

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? *I began my campaign seven months ago challenging the incumbent DA for creating a conviction review unit that is largely toothless. I will ensure that this unit is fully staffed and includes attorneys with defense experience, not merely career prosecutors. Rooting out past police misconduct is a critical component of this mission – when we learn of corruption involving police officers, we should review prior convictions which relied on their testimony, interviews, or search warrants. Similarly, we must be fearless in searching for any prosecutorial errors that led to wrongful convictions.*

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? *I am unequivocally opposed to housing juveniles in adult jails, and I am committed to removing juveniles from 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? *I believe we should attempt to minimize the number of youth offenders prosecuted as adults. One reform I have proposed and will continue to advocate for as District Attorney is to raise the age of jurisdiction of the Family Courts from 21 to 25 (currently Family Court loses jurisdiction when juvenile defendants turn 21). This would give us more time to treat, rehabilitate, and supervise young offenders and increase their odds of moving on from the mistakes of their past. This single change would expand the number of cases in which we could keep young offenders out of the adult system and thereby help us stop a school-to-prison pipeline from running through our city.*
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? *I will not seek life without parole for juveniles. For those being re-sentenced, I will seek individual review of each case, and will taken a variety of factors into consideration including their behavior while in custody.*

Re-entry

1. How would you support people given LWOP as juveniles in re-entering their communities? *In my opinion, jobs and economic opportunity are the most critical part of a successful re-entry program. As DA, I will ensure that all of our re-entry programs make a serious effort at providing real economic opportunity. As mentioned previously, I have utilized nationally recognized re-entry programs during my time as an Assistant U.S. Attorney, and will look to apply those lessons to the DA's Office. I am particularly curious about studying the feasibility of a specialized re-entry program for returning citizens who were convicted when they were juveniles.*
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, successful re-entry programs that reduce recidivism will be a key tool in my DA's Office. See Question #4 in the decarceration section of this questionnaire.*

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? *First and foremost, we need to eliminate the for-profit motive of the forfeiture program. To the extent that the DA's office seizes criminal proceeds, we should direct them to a third-party beneficiary, such as Philadelphia's public schools. Secondly, we need to end the "scorched earth" approach, in which the DA's office seizes 100% of property or assets that they are legally able to, without regard to broader issues of equity and fairness. Philadelphia has the highest poverty rate of any big city in America, and when you seize somebody's home, you are literally leaving them homeless. Finally, I will work with the state legislature to reform our overall forfeiture system. At the U.S. Attorneys' Office, we had both criminal and civil forfeiture, which positioned us to primarily seek forfeiture in criminal cases after the conviction while having civil remedies to freeze assets in white collar cases in order to ensure that victims would have restitution. A model that more closely resembles the federal system should be our goal.*

Death Penalty

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

Generally speaking, I do not support the death penalty. I am the only candidate who has been a career prosecutor for 16 years, and I've never once sought the death penalty. I support the Governor's moratorium on the use of the death penalty, especially as we work to resolve the current racial disparities in its implementation. I also pledge that my office is never going to use the threat of the death penalty as a bargaining chip to get easy plea bargains or as a way to seat a jury that is more likely to convict.

I made my views on the death penalty clear to both the DA's Office and U.S. Attorney's Office. There are very rare, very extreme cases with zero doubt of guilt in which I would not rule out this penalty. The only instance I remember of the U.S. Attorney's Office seeking and obtaining the death penalty was so extreme that I did understand why the prosecutors sought it (although I was not involved in the case). Kaboni Savage, an already-imprisoned criminal orchestrated one of the worst massacres in the history of our state. He was dangerous despite already serving a long prison sentence. His attack wasn't just on human life, it was an attack on our system of justice – his motivation was to retaliate against a witness who had helped prosecute him. And the facts were harrowing – he ordered the firebombing of a house full of people, including four children. Savage wasn't just aware that he was killing children – he celebrated it. He joked about serving barbecue sauce with the charred remains of their small corpse at the victims' funerals. I would rule out the death penalty for most cases, but not brutal, extreme, and rare cases like that of Kaboni Savage, where there is no doubt of guilt or concerns about unequal justice.