

Berkeley Progressive Alliance
Questions for Alameda County DA candidates

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Deadline for submitting completed questionnaires: Friday January 19, 2018

Money Bail

1. Are you in favor of doing away with money bail? Why?

Absolutely. Money bail creates a tiered justice system, one for poor people and one for rich people. It criminalizes poverty by keeping people locked up not because they have been guilty of any crimes or are a threat to public safety, but simply because they don't have enough money to post their bail. Meanwhile, rich people can simply post bail and leave custody even if they pose a threat to public safety. Money bail doesn't advance public safety and perpetuates inequality. Furthermore, the racial disparities in who's currently incarcerated for inability to post bail are outrageous. People of color are disproportionately held in custody due to inability to post bail, forcing people to plead guilty just to get out of jail. Money bail is also wasteful. Alameda county, over a course of two years, [spent \\$14.8 million dollars](#) to incarcerate people who the prosecutor never ended up filing charges for or whose charges were dismissed. These are funds that can be reallocated to prevent crime by supporting re-entry efforts, job placement, and housing assistance.

2. How do you (or will you) monitor those in your office to prevent abuse of the current money bail system?

I will support SB 10 to reform money bail on the statewide level. Additionally, I will significantly expand the pre-trial release program in the county with the presumption of release and release on recognizance for people, unless there is credible evidence that a person poses a serious flight risk or a threat to public safety. All my deputies will be notified of this policy. If a deputy believes a person is a flight risk or threat to public safety and want to keep them in jail until their day in court, they will have to seek approval from their supervisor and present credible evidence for their assessment.

Juveniles

3. Under what circumstances do you think a juvenile should be prosecuted as an adult?

I believe there are no circumstances under which a juvenile should be prosecuted as an adult. The development science is clear that young people don't fully grow into their faculties until their mid twenties. Numerous studies have shown the devastating harms of prosecuting children as adults. Prosecuting youth as adults destroys their lives and does nothing to make our communities safer. I believe the best way to approach youth

is through investments in education, after school programs, targeted employment, and interventions (that are developmentally appropriate) when they do commit crimes.

Death Penalty

4. What determinates would go into such a decision to ask for a death penalty?
The voters in Alameda county have voted twice (in 2012 and 2016) to abolish the death penalty. There have been too many instances of innocent people who have been executed or sent to death row and later exonerated for us to risk making such an irreversible mistake. Furthermore, the racial disparities in death row inmates is stark and disturbing. I will respect the wishes of Alameda county voters and not seek the death penalty if I have the honor of being elected as your District Attorney.

Rape

5. In light of all the media attention surrounding sexual harassment and rape, what criteria will your department use to decide whether to prosecute these crimes?
Sexual assault is a serious issue and should be dealt with appropriately. My primary concern when dealing with sexual harassment and assault cases is the well being of the survivor. My office will do everything in our power to make sure that survivors are supported throughout their healing process. The harassment or assault will be prosecuted in accordance with existing laws to hold offenders accountable.

Victimless Crimes

6. What is your policy with regard to prosecuting non-violent political resistance and protest?
People have a right to express their political views through protest and resistance. That is the basic premise of democracy and the times we are in certainly call for it. When many Black Lives Matter protesters shut down BART temporarily in 2014 to raise awareness about the killings of Black people by law enforcement, Nancy O'Malley decided to charge those brave activists. It wasn't until weeks later under tremendous public pressure that she actually decided to drop those charges. I will not prosecute cases of non-violent political resistance and protest. Such prosecution, apart from being frivolous and a waste of everyone's time and taxpayers' money, actually do not advance justice, as is the mission of the District Attorney's office. It also has a chilling effect on people's willingness to engage in a democracy and express their outrage at obvious injustices.

Crimes involving police

7. Should the DA's recommended sentencing for a crime be different if the victim is a police officer? If so, why?
I believe in equal justice under the law. If we believe all lives have equal value, why would we act as if some lives are worth more than others? I believe the sentencing recommendations should be comparable both for civilian or law enforcement victims.
8. Is there a different standard for choosing whether to prosecute a police officer or a civilian of a crime?

Similar to answer #7, I believe the standard of whether to prosecute a police officer or a civilian should be comparable. However, state and federal law grants police officers qualified immunity and other protections resulting in different standards required to prosecute. I will prosecute according to the reaches of the law and support advocacy for the change in standards.

Police Latitude

9. When are police justified in using pain compliance to force non-violent protests to obey? If unjustified pain compliance is used, how will the DA office deal with such charges?
I believe almost all non-violent protests can be resolved peacefully with de-escalation tactics without having to resort to force. My office will create a special “Police Accountability Unit” to thoroughly investigate all allegations of police misconduct, including unjustified and unlawful use of force.
10. Under what circumstances would the DA office prosecute police for extreme use of force? Provide an example of the “least” extreme use of force where prosecution is justified.
If I’m elected District Attorney, I will establish a “Police Accountability Unit” that will vigorously investigate and prosecute all allegations of unlawful conduct by law enforcement officers. Past allegations of unlawful police misconduct include perjury, bribery, racially biased policing, physical assault, and ultimately killings of civilians by law enforcement officers. I will not tolerate unlawful conduct by police officers who abuse the power they are given by the public to protect and serve our communities.

Jail or Rehabilitation, Charging and Plea Deals

11. What steps will you pursue to reduce the recidivism rate?
I will begin by first fully implementing propositions 47 and 57, which the voters of Alameda County passed overwhelmingly to reform the criminal justice system. I believe in investing heavily in prevention programs, strong public schools, afterschool programs, mentorship programs, quality healthcare, affordable housing, and full employment for all. I also believe in smart interventions that focus on the strengths of the people who come into contact with the criminal justice system. I will significantly expand diversion programs for youth, people with disabilities (mental or physical), people with substance use disorders, and first time offenders. I will support community alternatives to incarceration and other punitive measures. I will establish strong partnerships with community organizations, faith based groups, labor, and other stakeholders to make sure we collectively create sustainable support systems for people to get back on their feet and live a productive life of dignity.
12. What is your position on the DA’s office overcharging a defendant in order to extract a plea deal? Is this a valid bargaining technique?
The mission of the District Attorney is to seek justice, not convictions. I disagree with this practice and I believe it is contrary to the mandate of the District Attorney. I do not believe it is a valid bargaining technique or a moral practice to overcharge someone in order to secure a conviction. All my deputies will be instructed to only pursue charges that they believe they can prove in court beyond reasonable doubt at the time of the charging. I will have a collaborative working relationship with the office of the Public Defender in order to achieve both of our objectives, which is justice with equal and due

process for all. If any of my deputies are overcharging defendants, they will be disciplined appropriately, which includes demotion or termination.

13. What is the primary goal in recommending sentencing (punishment, public deterrent, rehabilitation)?

In our current system, the primary goal of recommending sentencing is punishment and incapacitation. Given the terrible conditions in most of our prisons and jails, nobody can argue that incarceration is having the intended rehabilitative impact on incarcerated people. However, in an ideal world, if we are to have a society that has prisons, they would also serve a rehabilitative function by providing incarcerated people with wrap around services to resolve the issues that drove them to commit the crime in the first place and prepare them for re-entry into society, ranging from counseling services, job training, and other services as needed.

Systemic Problems

14. How will your office handle crimes that involve the mentally ill, or mentally challenged? What is your policy in charging those who have mental disabilities?

I intend to expand the existing specialty mental health courts so that more people can have access to diversion services they need.

15. Do you agree that policing involves systemic racism? If so, how will your office deal with the injustice of this system?

Of course. Black children make up less than 13% of the county but are 53% of felony arrests. There is no way you can have such outrageous disparities and not think policing in this country, and certainly in this county, doesn't involve system racism. My office will deal with systemic racism in the following ways:

- a. **I will fully enforce the consent decree the Oakland Police Department has been in for over a decade and support the police commission that the voters recently passed to hold police accountable**
- b. **I will ensure that all law enforcement agencies in the county are also in compliance with the guidelines and standards laid out in the consent decree**
- c. **I will create a "Police Accountability Unit" in my office that will vigorously and transparently investigate and prosecute all unlawful police misconduct.**

16. Do you acknowledge that systemic racism exists in the DA office? If so, how will your office deal with the injustice of this system?

Of course. A recent study by the Center On Juvenile and Criminal Justice, Burns Institute, and National Center for Youth Law found that between 2010-2016, Black youth were 65 times more likely and Latino youth were 27 times more likely to be prosecuted as adults than white youth. Only systemic racism in the current DA's decision making process can explain those disturbing disparities. I will address the issues of systemic racism in the DA office in the following manner:

- a. **Examine all the current data and identify data gaps that can reveal to us where exactly the racial disparities are originating from and how they can be stopped. I will work with experts like the Vera Institute who have done this type of work with other progressive DAs in other counties throughout the nation.**
- b. **All the prosecutors will receive continual training on systemic racism and implicit bias as part of their professional development.**

- c. I'll implement fair and just charging policies that reduce incarceration. For instance, to address the above mentioned disparities with regard to youth of color being prosecuted as adults, I will institute a policy to never charge any youth as adults under any circumstances. That would eliminate the racial disparities in the prosecution of youth as adults.

DA office management

17. What fraction of DA resources will go into white collar crime? Which crimes receive the greatest resources and which are a low priority?

Resources in the DA office will be allocated appropriately to respond to the crimes that are causing significant harm to the residents of the county. I will focus on environmental crime, wage theft, corruption, and other crimes that are harming our communities in the county. Low priorities will be quality of life crimes (drunk in public, trespassing, etc) misdemeanors, and low level first time offenses. I will put programs in place that seek to hold those folks accountable through community service, connect them with the social services necessary to address their underlying issues, and divert them away from the criminal justice system.

18. How will your staff select between punishment and rehabilitation?

My staff ethos will be to always seek diversion, rehabilitation, and second chances whenever possible. Staff will be trained and instructed to always seek rehabilitation options before considering punitive options for most charges. When staff seeks punishment, they will have to justify their decision by presenting a credible case that a person has committed significant harm and is an imminent threat to public safety. In those situations, staff will be instructed to seek sentencing recommendations that are proportional to the harm and take into consideration that people can rehabilitate and should have an opportunity for a second chance when the time is appropriate.

19. What metrics do you (or will you) use in supervising the DA office to make sure assistant DAs comply with the policies that you set? What metrics do you (or will you) use to rate staff performance?

I will constantly monitor the county's incarceration and racial disparity metrics. These metrics will let me know which ADAs are complying with office policies to reduce incarceration and racial disparities and which ADAs are not. I will also have a close working relationship with the Public Defender's office to make sure there's a constant feedback loop between both parties and hear about what my ADAs are doing on a consistent basis.

I will look at how many people a particular DA is diverting away from the criminal justice system, what length of sentencing DAs are recommending, how immigration consequences are considered when pressing charges, and how each ADA is contributing to the reduction of racial disparities. These metrics will be used to evaluate staff hiring, performance, and promotion.

Please type your responses to the Questionnaire and submit them in pdf or Word documents using these question numbers. Be sure to include your name and contact info at the top. E-mail the completed document containing your responses to: BPA2016@aol.com

We will post each candidate's responses online prior to our endorsement meeting and our members will be encouraged to read them.

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