2019 Travis County Attorney Candidate Accountability Questionnaire

Local and state prosecutors hold extraordinary power in the criminal justice system. How they exercise discretion at each stage of criminal proceedings—from initial charging decisions to the sentences they seek to impose—determines whether the local justice system is fair and just. They also wield significant influence as policymakers and civic leaders, and can work with legislators, judges, public defenders, law enforcement, and other community stakeholders to advance justice through policy reforms.

Prosecutors can and should use this power to end the scourge of mass incarceration in America. Texas has one of the largest prison populations in the country. The state’s over-reliance on incarceration and harsh punishment is both costly and ineffective; it exacts enormous financial, emotional, and social costs on communities across the country while exacerbating recidivism and leading to more crime.

This questionnaire evaluates whether local prosecutors are committed to addressing the key drivers of mass incarceration. The questions fall broadly into six categories:

1. Policies Aimed at Reducing Mass Incarceration
2. Policies Aimed at Reducing Excessive Punishments
3. Policies that Aid Undocumented Communities
4. Policies that Promote Police Accountability
5. Policies that Promote Transparency and Accountability to the Community
6. Policies that Guard the Community Against Abuse of Power by Officials

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Dominic Selvera
Do you believe that there is an over-reliance on incarceration in your county? What do you believe is the prosecutor's role, if any, in ending mass incarceration?

We absolutely have an over-reliance on incarceration in Travis County. It’s evident by the fact that over 70% of the folks in Travis County Jail have not been convicted of a crime and are simply there because they cannot afford cash bail. I believe a prosecutor's role is to see that justice is done and in my eyes, justice means ending cash bail and allowing folks to handle their cases outside of the confines of county jail regardless of their financial situation. I also believe it is the elected prosecutor's role to publicly advocate for ending cash bail and to make the public aware of the oppressive nature of the cash bail system.

Policies Aimed at Reducing Mass Incarceration

1. Limit the Use of Money Bail

Texas's continued use of unjust money bail policies contributes to the overall incarceration of poor people and disproportionately harms people of color by keeping them incarcerated simply because they cannot afford to pay bail.

What role, if any, do you think money bail should play in our justice system?

I don't think there should be a place for money bail in our legal justice system. It punishes people who are poor, cash bail doesn't make our communities any safer, in fact, cash bail makes it more likely that people will re-offend if they are incarcerated longer than 48 hours.
Cash bail has been a problem in Travis County as long as I’ve been an adult. When I was a senior in college, I was arrested and held in Travis County Jail. I was unable to afford bail and the only reason I was able to get out was because I had a friend who had the means to bail me out. Not everyone has that family member or friend who can bail them out and it creates a two-tiered system of justice, one for people with money and one for people without money. Because I had a friend that was able to bail me out, I was able to handle my case, graduate from college, get a great union job, and eventually go to law school to become a criminal defense attorney. I am on a mission to end cash bail in Travis County.

Harris County just entered into a misdemeanor cash bail settlement. Are the reforms in the settlement enough? Too much? Are there additional changes you would make to an internal office policy as the Travis County Attorney on bail?

I do not agree with section 9.7 which would allow the use of secured money bail for carve out provisions under subsections 9.4.1 - 9.4.6. Cash bail should not be used for any misdemeanor cases.

What changes would you make to the current cite and release policy?

Under section 9. Under section 9.4, I would change the detention limit from 48 to 24 hours so that people who are required to have an individualized hearing can complete the process sooner to be released from jail.

Will you commit to not charging anyone who fails to appear on a cite and release with bail jumping or bond forfeiture?

- Yes
- No
I believe the prosecutor should work with the defense attorneys and our clients to investigate the reason for the missed court date to determine what needs to be done to help the person appear at the next setting.

Will you agree to waive discretionary fees for anyone who cannot pay for court fees, classes, or supervision fees imposed as a condition of their pretrial release? If no, why not?

- Yes
- No

Please provide any explanation you would like in the space below.

I don't believe that a person's financial status should keep them from receiving the same type of justice as everyone else.

Will your office commit to taking a default position of release on a personal recognizance bond, with the least restrictive conditions (if any), unless there is a substantial risk to the community or high likelihood of flight, for all charges in which statutorily permitted to do so?

- Yes
- No

Please provide any explanation you would like in the space below.

This goes hand-in-hand with my mission to end the use of cash bail in Travis County.
Under what circumstances would you believe a person poses a substantial risk to the community?

I don't believe that any person who is solely accused of a misdemeanor offense poses a substantial risk to the community.

Will you adopt an office policy not to ask someone to plead guilty so they can get out of jail, but simply to consent to a PR bond instead?

☐ Yes

☐ No

Please provide any explanation you would like in the space below.

This is not a practice that can be squared with justice. I have had clients in this situation and I will not allow this practice to continue if I am elected to become Travis County Attorney.

2. Keep People Out of Jail for Misdemeanor Drug-Related Offenses

Years of experience with ineffective drug laws and the latest medical research on addiction suggest that treating drug use as a public health issue, as opposed to a criminal justice issue, is a more effective and humane approach to reducing harm.

Will you support diversion programs for misdemeanor drug offenses?

☐ Yes

☐ No
I will support diversion programs generally, but I am committed to the full decriminalization of all drug possession cases that come through the county attorney's office. I plan on not prosecuting any drug cases and instead, we will offer substance abuse treatment and social services outside of the criminal justice system so that folks who need help do not have to worry about a relapse causing them to return to jail. I have been a vocal advocate for replicating the Portugal model here in Travis County. Portugal has led the way when it comes to drug decriminalization and handling issues related to substance abuse. We need to do the same thing in Travis County.

3. Adopt Policies to Avoid the Criminalization of Poverty

Local criminal justice systems disproportionately harm people living in poverty. Whether through the imposition of fines and fees as a condition to resolving cases, or through laws that effectively criminalize homelessness, local actors have imposed a poverty penalty on many within the community.

Will you refuse to permit a person's financial resources to play a role in their eligibility for bail, a plea agreement, the appropriate sentence, or entrance to a diversionary program?

- [ ] Yes
- [ ] No

Please provide any explanation you would like in the space below.

A person's financial situation will not prevent them from accessing any opportunity to access justice. I will never forget being directly impacted by the cash bail system, and I will do everything I possibly can to make sure not one more person is locked up in jail due to not being able to afford bail.
Will you adopt fee waiver programs for those diversionary programs that currently require fees?

- Yes
- No

Please provide any explanation you would like in the space below.

Ability to pay fee will not prevent a person from entering into a diversionary program.

Will you oppose incarceration based upon the failure to pay fines or fees?

- Yes
- No

Please provide any explanation you would like in the space below.

I am opposed to incarceration in general and especially for folks who cannot afford their fines or fees.

Will you establish a strong presumption against prosecuting criminal trespass and other conduct that is a byproduct of homelessness or poverty?

- Yes
- No
Yes, this is one of the main three issues on my campaign push cards that we hand out to voters. Prosecuting offenses that target the homeless does nothing to help people end the cycle of poverty. We will treat these cases similar to drug cases. We will offer services and treatment and decline to prosecute so that people can get the help that they need to live with dignity and respect.

Policies Aimed at Reducing Excessive Punishments

1. Treat Kids Like Kids

Recognizing that children's brains continue developing until around age 25 and that research supports their enhanced capacity for rehabilitation, children should not be prosecuted in adult court and they should not be given punishments that preclude the opportunity for redemption.

Will you establish a strong presumption against prosecuting school suspension or expulsion cases where there is no use or threat of force resulting in physical harm?

- Yes
- No

Please provide any explanation you would like in the space below.

These cases fall under the jurisdiction of the District Attorney, but I fully support not prosecuting school suspension cases.
We are going to end the use of the trial penalty for folks who wish to exercise their constitutional right to a trial. The offer that we make pre-trial will be the same if the case gets to the punishment phase. We will not recommend a harsher sentence if a person is found guilty at trial.

3. Promote Proportionate Sentencing and Pathways to Second Chances

People are more than their worst acts, and even people who commit even serious offenses often change profoundly over time. To recognize the worth and potential for growth in all people, it is important for local prosecutors to provide individualized consideration to the character and background of each person and to the circumstances surrounding the commission of the offense.

Will you pledge to establish an office policy against increasing or threatening to increase the number or severity of charges in order to secure more favorable plea dispositions or waivers of rights?

Yes, we will not over charge in order to secure a plea.
Will you require that the chief assistant prosecutor approve all jail sentences sought?

- Yes
- No

Please provide any explanation you would like in the space below.

Any prosecutor who seeks a jail sentence will need the approval of myself or the 1st assistant.

Will you pledge to adopt an evidence-based probation policy, that includes limiting term limits of supervision, and agreeing not to ask for jail when there is a technical violation of probation?

- Yes
- No

Please provide any explanation you would like in the space below.

We will adopt an evidence-based probation policy. Extending probation terms do not make our communities safer. We can achieve accountability without requiring long probation sentences.

Policies That Aid Undocumented Communities

Texas is home to a large and diverse immigrant population. In the last year, undocumented communities have come under increasing attack because of increasingly vicious federal immigration laws. These policies not only allow for deportation because of minor allegations like possession of drugs, but they also make communities less safe, as undocumented victims fear going to court or speaking to law enforcement.
Will you implement an office-wide policy requiring prosecutors to consider immigration consequences in charging, plea, and sentencing decisions?

- Yes
- No

Please provide any explanation you would like in the space below.

I represent clients who are not citizens and it is a tragedy when prosecutors will not consider alternative outcomes for my clients. No only will we consider immigration consequences when handling misdemeanor cases, we will offer pretrial diversion programs that do not require an admission of guilt in front of a judge so that their case does not negatively impact their immigration status.

Will you support suits against SB4? If no, why not?

- Yes
- No

Please provide any explanation you would like in the space below.

I will support any suit that opposes SB4.

Will you decline to require a guilty plea or any other admission of guilt before admission to a diversion program?

- Yes
- No
Yes, explained above in reference to non-citizen cases.

Declining to prosecute certain classes of cases is different than diversion and does not require time or acceptance into a program. Which, if any, of these charges will you decline to prosecute: marijuana, criminal trespass, theft of necessities, drug possession, criminal mischief, graffiti? Please explain any exceptions to declination you would have.

Each of the charges listed above will not be prosecuted. In addition, we will not prosecute any sex work cases because I believe that a person has the right to choose what to do with their body. I also believe that it will create a safer environment so that folks in the sex work industry can report crimes against them without fear of prosecution.

Will you implement an office-wide policy that Padilla Writs should be agreed to unless there is affirmative evidence that the attorney gave correct and complete immigration advice to the person?

- [ ] Yes
- [ ] No

Please provide any explanation you would like in the space below.

If a person was not advised of the immigration consequences prior to making a decision on their case, justice demands that we assist any defense attorney in their pursuit of justice. That means we will agree to Padilla Writs under these circumstances.
Policies that Promote Police Accountability

Although charged with serving and protecting, police officers are too often the perpetrators of violence against our communities. Enhancing transparency and accountability is crucial to promoting trust between the community and law enforcement. In the wake of the flood of police misconduct, especially violence against people of color and children, the district attorney must be committed to rigorously and independently investigating and prosecuting police misconduct.

When legally able to do so, will you release any dash-camera, body-camera, or other audio or video footage related to police-involved misconduct within 24 hours of any charging decision?

- Yes
- No

Please provide any explanation you would like in the space below.

The best way to root out police misconduct is to shine a light on it. Releasing dash-camera footage is important so that the public is made aware of what is going on in our criminal justice system.

Will you decline to use testimony from officers known to have committed misconduct in the past, including, but not limited to, perjury, making false allegations, withholding exculpatory evidence from the defense and making statements evidencing racial bias?

- Yes
- No

Please provide any explanation you would like in the space below.

Yes, and we will make the list public.
Will you maintain a list of police officers who are known to have committed misconduct in the past including, but not limited to, perjury, making false allegations, withholding exculpatory evidence from the defense and making statements evidencing racial bias?

- Yes, and I will make that list available to the public
- Yes, but I will not make that list publicly available
- No

Please provide any explanation you would like in the space below.

The days of prosecutors protecting lying cops will soon be over. We will make our no-call list public. When attorneys are found to have committed misconduct, our findings are made public in our monthly bar magazine. There is no valid reason for police misconduct to remain hidden.

Policies that Promote Transparency and Accountability to the Community

Enhancing transparency and accountability within the district attorney's office is critical to ending the win-at-any-cost pursuit of high conviction rates that is failing our communities. Our elected prosecutors must build a culture focused on seeking justice for victims and ensuring that justice is equal. This requires openness to community scrutiny and feedback, paying close attention to racial disparities, and prioritizing the needs of victims and their families.

In order to measure the effectiveness of policies and reforms, will you maintain and publish regular statistics about prosecutions, including the number of cases filed each month, disposition statistics, pretrial incarceration rates and length of stay by offense category, average bond for each class of offense, and caseloads of prosecutors?

- Yes
- No
In order for there to be public confidence in our criminal justice system, we need accountability for police officers and local prosecutors. One of the first hires that I will make will be a data analyst to maintain and publish our statistics so that it is easy for the public to view and understand. The only way that we will improve our legal system is to see where our problems are. The stats must include racial identifiers so that we can track racial disparities in policing and prosecutions.

Will you include racial information at all steps, committing to publicly report any significant racial disparities at any stage of the process?

- Yes
- No

Please provide any explanation you would like in the space below.

Answered above.

Will you build a staff that reflects the diversity of the community the office serves?

- Yes
- No

Please provide any explanation you would like in the space below.

I think that diversity is vital, especially in an organization that disproportionately affects lower income folks and people of color. Since myself and my family have been directly impacted by the criminal justice system, I will place greater consideration for hiring folks who have experienced the same and are empathetic to folks going through the criminal justice system.
Will you commit to regular communication with community members and organizations, including regularly scheduled open sessions and regular meetings with civilian oversight boards to listen to and then address concerns over police-community relationships and allegations of police brutality?

- [ ] Yes
- [ ] No

Please provide any explanation you would like in the space below.

I am a member of two organizations with heavy ties to criminal justice reform: Austin Democratic Socialist of America and Texas Advocates for Justice. I plan on remaining active with my organizations and being accessible. With Austin DSA, not only are we fighting for criminal justice reform, we're fighting for economic justice, health justice, environmental justice, women's reproductive justice, and educational justice. These problems are related and our fight won't stop just because we elect a progressive county attorney.

On December 5th, one day after the 50th anniversary of Chairman Fred Hampton's assassination by the Chicago Police Department, I spoke at city hall and compared the problems related to racism in the 60's and the problems with racism in the Austin Police Department that we currently have now. Those problems are with the leadership within APD and they won't go away unless we directly confront them and demand direct action be taken. When I'm county attorney, I will still call out racism whenever it appears.

Will you prioritize the needs of the victims of violence by expanding support of victim/witness service programs and improving communication with victims and family members?

- [ ] Yes
- [ ] No
We must have a responsive and effective victim service program. I will also offer a restorative justice program for victims of assault and family violence who choose to address the harm committed to them in this fashion. Being responsive to victims of crime means giving them a voice in how their case is handled so that we can achieve a better outcome for all involved.

Policies that Guard the Community Against Abuse of Power by Officials

Fraud and public corruption undermines public trust in government. There are also inevitable mistakes that have life-altering impacts. It is crucial that elected prosecutors serve as one of the first lines of defense to protect the less powerful in our society from exploitation, especially when it comes to abuse of power by those in government who are supposed to act in the public interest.

Will you end the process of abusive civil asset forfeiture wherein the county seizes cash or possessions before there has been conviction or in instances where there is not even proof of criminal activity?

- Yes
- No

Please provide any explanation you would like in the space below.

Yes, I am against civil asset forfeiture in any misdemeanor case.

Will you commit to use asset forfeiture in criminal cases only after obtaining a conviction, and ensure members of the community have a meaningful opportunity to contest seizure when it happens?

- Yes
- No
We will not use asset forfeiture without a conviction. I do not see a scenario where asset forfeiture is appropriate in a misdemeanor case.

Will you support statewide legislation to end the use of civil asset forfeiture?

- Yes
- No

Asset forfeiture has been abused in this state and we need legislation to curb or to end this practice.

Will you create mechanisms for a second look at charging decisions, plea bargains and convictions, because mistakes are inevitable and the consequences life-altering?

- Yes
- No

Our office won't be perfect, no office is. We will be transparent when we make mistakes and do everything we can to correct any mistakes we make.
Will you create a conviction review unit, complete with an independent panel to review the unit’s findings? Will you operate that unit transparently and publish regular data summarizing the unit's findings?

- Yes
- No

Please provide any explanation you would like in the space below.

This is typically more relevant to felony cases handled by the District Attorney, but I am absolutely open and supportive to creating a conviction review unit to make sure our system is fair and just.

Please provide any additional information that you would like to share.

Thank you for this opportunity. My cell phone number is 512 751-1302 in case you have any follow-up questions, I am happy to discuss this questionnaire any time.