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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Delia Aileen Garza
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?

Yes, we have overcriminalized various acts in our society, many of which are simply a byproduct of being poor. Furthermore, decades of mandatory sentencing and other “tough on crime” policies have resulted in a variety of negative outcomes, including making us the country with the largest jail population. Even though violent crime has been on the decline for some time now, our jail population continues to increase. I believe there are systematic reasons for this, one in particular is our refusal to recognize and fully understand this country's mental health crises, as well as our unfortunate refusal to not properly fund mental health care for those in need of that kind of care. With regard to the prosecutor's role in ending mass incarceration, as stated in the intro to this questionnaire, the prosecutor wields tremendous power. They for the most part decide the charge, the plea, and the sentencing. If we are truly to end mass incarceration, we need prosecutors who are less concerned with conviction rates and more concerned with truly helping people. We need people with more of a social workers mind set in these positions. We have decades of evidence showing that the current system is inequitable and does not work and is only making matters worse. One or two slip ups in someone's life should not negatively affect them for the rest of their lives.

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?

It should only be used in situations where there is a public safety risk.
Please provide any explanation you would like in the space below.

The money bail system unfairly favors people with the means to get out of jail. You should not have to sit in jail for a non-violent offense simply because you can't afford to bail out. Any system that favors wealthy folks over poor folks, is a system that needs reform. The outcomes of forcing people to sit in jail greatly affects their ability to keep a roof over their head and support their families. Furthermore, one should never have to choose between freedom and putting a huge financial burden on their family to pay to get out of jail. The burdens of the money bail system is carried heavily by working and poor families.

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?

It's my understanding that the settlement will affect 85% of low level defendants and this is a very positive move in the right direction and could become a blueprint for other counties. I would like to further understand why 100% of the low level defendants are not affected by the settlement. These reforms offer a great opportunity to monitor the outcomes which can lead to tweaks in policy that other counties can learn from. As the Travis County Attorney, I will work with advocates, scholars, and the community to craft a policy that creates the best outcomes for Travis County.

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

As a member of the Austin City Council, I was a co-sponsor on the Freedom Cities Initiative which changed our cite and release policy and gave officers more discretion when deciding to arrest someone or ticket someone. It also went further to require better reporting and data so we could determine if the change was in fact changing outcomes. The latest data shows that while arrests have decreased as a result of this policy change, racial inequities still exist. I think continued training and better monitoring of our officers will reduce unnecessary arrests more. Recently our council went even further in ordering a deeper investigation of racial biases in the department and how those biases affect training and the promotion of officers. I will continue to work with advocates to strengthen this initiative.
Will you commit to not charging anyone who fails to appear on a cite and release with bail jumping or bond forfeiture?

- Yes
- No

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

Getting to court can be incredibly hard for many in our community. There could be transportation issues, childcare issues, or work schedule issues. My time as an Assistant Attorney General in the Child Support Division made me very familiar with these types of obstacles working families face. I commit as the County Attorney to provide opportunities that make getting to court easier and less intimidating including working with judges to offer night court and weekend court opportunities as well as offering warrant amnesty periods during non-traditional business hours. Our municipal judges offer warrant amnesty several times a year, there is not reason we can't do that at the higher courts, Also, at City Council when we are deliberating a controversial issue or an issue that could have a big impact on working families, we intentionally decide that we won't hear or decide on the issue until after 6 pm. We also offer Saturday public hearings with childcare opportunities and translation services. Just like we make accommodations at the city government level, our criminal justice system should offer similar opportunities and failure to appear should not result in negative and life changing outcomes.

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.
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.

Just as my record shows support of policies like cite and release, I would also support any policies that reduce barriers placed on people when they get tangled in the criminal justice system. Our goal should be getting people out of the system instead of keeping them in the system.

Under what circumstances would you believe a person poses a substantial risk to the community?

Generally speaking, I believe it would be someone with a history of violent behavior and/or someone who has committed a particularly heinous crime. But I will work with prosecutors, public defenders, and advocates to craft the best policy to address this issue. The law is always fluid and many decisions depend on a variety of circumstances.

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
The practice of requiring someone to plead guilty to a crime so they can get out of jail is one of the most unfair practices and an obscene miscarriage of justice. It takes advantage of those who aren't savvy enough to know the extent of their rights. If a prosecutor believes that a person is safe enough to walk out of jail, then they should allow that person to have their day in court before making their plea a condition of freedom.

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

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

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.

The criminal justice system should focus more on stopping the revolving door into our jails. The plea agreement, appropriate sentence, etc should be primarily about creating a circumstance that puts the offender in the best position to exit the system with the least consequences to being in the system. As a council member, I lead the effort to standardize how our municipal judges determined indigency because some of our judges were jailing people using a variety of different methods of determining indigency. After we standardized the determination, the data showed we were jailing less people simply for not being able to pay fines that they couldn't afford, which is unconstitutional anyway.

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.

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

- Yes
- No
I was a co-sponsor on the work our city council did to decriminalize homelessness by repealing sit and lie ordinances that prevented people from simply sleeping somewhere because they had no where else to go. We also decriminalized panhandling. We faced tremendous pressure from the public to reverse this decriminalization and some colleagues made attempts to bring the issue back to impose the restrictions again. Thankfully we were able to block most of those efforts.

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.

Our schools have come to rely too heavily on the criminal justice system. It is important that teachers and children feel safe at school, but I will work with school districts to ensure we aren't setting children up for failure by imposing harsh punishment and the negative life outcomes and consequences that come from that harsh punishment.

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In all cases, will you establish an office-wide presumption that the least severe applicable charges apply, and that the lowest sentencing outcome is the correct recommendation?

☐ Yes

☐ No

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

This should be the standard in all cases and for all prosecutors.

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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
- No

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

Real justice does not exist in a system where any one side is able to wield tremendous power over those in incredibly vulnerable positions.

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.

I have visited with several Assistant County Attorneys as well as ones that have since moved on to the District Attorneys office. They have told me that when they were young/new prosecutors, they received very little training and that sometimes they sought extremely tough punishment/sentences because they really had no guidance in sentencing. It's important that there is a system in place that oversees sentencing recommendations to ensure we are truly considering various factors like the negative life outcomes that flow from inappropriate sentencing as well as the cost to taxpayers.
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.

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.

Our immigrant community is in many ways the backbone of our community. Statistically speaking we know that immigrants commit crimes at a much lower rate than the rest of the population but bear tremendous and life altering consequences when they do. One slip up shouldn't create the life changing consequence of deportation and/or family separation.
Will you support suits against SB4? If no, why not?

- [ ] Yes
- [ ] No

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

Not only will I support it, but I have already been part of filing such lawsuits. As a Council Member we initiated the SB4 lawsuit against the State of Texas and Greg Abbott. I also believe the County Attorney's office could be doing more to push back against Texas' voter suppression efforts. When the Secretary of State went after our voter rolls, the county did little to prevent this overreach and suppression tactic. I want to empower county officials to fight back against these kinds of tactics. We know voter suppression is about silencing communities of color. Any effort to diminish the political power of our communities of color is unacceptable and we need leadership that is willing to take a stand against it. I've taken that stand before and stand ready to do it again.

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

- [ ] Yes
- [ ] No

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

My goal is to decline prosecution on all of these kinds of low level crimes, many of which are simply a byproduct of socio-economic circumstances. I can't commit to the exact policy and exceptions at this time. I believe a good leader leans on experts and I need the time to have those discussions before making a blanket commitment.

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.

It's important that justice is carried out at every opportunity and people get every opportunity at freedom.

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.

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.

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.

First I have to say that I have a tremendous amount of respect for our police officers and public safety workers because I come from a family of police officers and firefighters. The vast majority of police officers are great officers and great people that I know truly care for the community they are sworn to serve and protect. While all workers deserve just cause and due process when it comes to termination, I firmly believe their should be mechanisms to remove police officers from their duties when they betray the public's trust. Committing perjury, making false allegations, etc should be grounds for termination. So on one hand, my hope is that there would not be the need for such a list, because if an officer commits one of these offenses, they should be relieved of their duties. On the other hand, if an officer retains their job despite the fact they have betrayed public trust, they should be held to the same standard that others are in similar instances. When a member of the public is accused of something, their is a mug shot publicly available, in essence a public list. And that list is created before their guilt or innocence is even determined. If a member of the public is to be held to a standard of everyone knowing what they are accused of, there should be no special treatment for anyone else when it comes to being held accountable for bad acts that betray public trust. I truly believe most people and good police officers have no problem with this type of accountability.

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

Yes, knowing this data and providing it to the public is the best way to understand if policies are effective.

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.

Yes, again, knowing this data and providing it to the public is the best way to understand if policies are effective.

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.
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.

Just as I have held regular town halls as a council member and other public meetings on difficult topics, as well as have attended public forums on difficult public conversations, I would continue to make myself available to the public.

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

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

Yes, as a council member I supported adding more resources to our sex crimes unit including more staff and more victim services to help reduce the rape kit backlog.

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.

To the extent the County Attorney plays a role is this, yes I would commit to ending it.

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

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

To the extent the County Attorney plays a role is this, yes I would commit to ending it.

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

☐ Yes

☐ No

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

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

We know inequities exist and we know that racial bias exists. It is extremely important for us to monitor all stages of the system to ensure the best positive outcomes.

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.
We must address the disparities in our criminal justice system that continue to punish the most vulnerable in our community. For decades we have leaders that come up through the office of the prosecutor and nothing will change unless we have a major culture change. We need to be less punishment-centered and more humane-centered. While attorneys often work in an adversarial environment, it does not need to always be that way. Both sides need to truly want accountability, justice, fairness, and right-sized outcomes. One of the many ideas I want to implement would be a pilot program for new prosecutors. In conjunction with the new Travis County Public Defenders office, I would like to create an exchange program where new prosecutors spend 6 months to a year working as a Public Defender. I think truly being able to see both sides of the system would result in better and fairer outcomes and would get us a little closer to addressing racial disparities in our system and ending mass incarceration.