



Texas

ACLU of Texas District Attorney Candidate Questionnaire

Congratulations on your candidacy for Harris County District Attorney!

All candidates for Harris County District Attorney have received a request to complete this questionnaire created by the ACLU of Texas.

Please help educate voters about your position on the issues by responding to this questionnaire by Friday, January 3, 2020.

By submitting this questionnaire, you give permission for your responses to be made available to the public.

Answers to these questions may be published online and distributed to voters. The questionnaire consists of 38 Yes or No questions, each with an opportunity to provide a comment or explanation.

Where neither “Yes” nor “No” is selected, the response will be recorded as “Did Not Respond”.

All respondents will receive a copy of their submitted responses and have an opportunity to correct any mistakes or errors.

We also want to remind candidates about our Harris County District Attorney Candidate Forum, scheduled for Thursday, January 30th at 6:30pm held at Interfaith Ministries. We will provide additional forum details in the first week of January.

Please direct any questions to Brad Pritchett at BPritchett@aclutx.org or call 346-299-6810.

Respectfully,

ACLU of Texas Campaign Team

For nearly 80 years, the American Civil Liberties Union of Texas has worked in the courts, the Legislature, and through public education to protect individuals' civil rights and liberties. As part of our organization's nationwide effort to fight racism within the criminal legal system and cut the nation's prison population in half, the ACLU of Texas has launched a public education campaign in Harris County. The ACLU will not endorse or oppose specific candidates for elected office. Our goals are to ensure that voters are educated about the potential consequences of an election, to educate voters, including our members in Harris County and those directly impacted by incarceration, about the role district attorneys play in mass incarceration. Through this campaign, the ACLU of Texas is working to hold candidates accountable to their communities' fundamental need for justice, safety and respect.



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Candidate Information

Contact Information *(For survey administrator use only)*

- a. Candidate Name: Carvana Cloud
- b. County: Harris
- c. Contact Person: Tasha Dennis, Campaign Manager
- d. Contact Email: tasha@carvana2020.com
- e. Contact Phone Number: 832-396-7932

About the Campaign *(For Public Use: to be posted online along with survey responses)*

- a. Campaign website: www.carvana2020.com
- b. Campaign email address: carvana@carvana2020.com
- c. Campaign phone number: 832-680-2040

End Mass Incarceration

In Texas, more than 233,000 people sleep behind bars in state and local facilities. Texas locks up more people in absolute numbers than any other state. Since the 1980s, the state's prison population grew by 500% and correctional costs more than tripled. Our prisons and jails have become costly and outdated behemoths that cause more problems than they solve. Mass incarceration has deepened racial injustice, shattered neighborhoods, and separated families, all without evidence that it has improved public safety.

1. Will you commit to reducing the number of people [Harris/ Harris] County sends to state jail or prison by 20% by the end of your upcoming four-year term, and put forward a written platform detailing how you plan to accomplish that goal within your first 100 days in office?

Yes No

Explanation (500 words):

As an experienced criminal attorney who has served as a prosecutor and defense attorney, I am deeply committed to achieving REAL criminal justice reform, which includes working with community stakeholders to end mass incarceration. As the elected District Attorney of Harris County, I will educate prosecutors and provide guidelines to ensure that each individual prosecutor understands their daily decisions must always take into account the importance of ending mass incarceration and avoiding disproportionate sentences.



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My plan to reduce the number of people sent to prison or state jail by 20%, in the first 100 days includes the following:

1. Decline to prosecute marijuana charges regardless of weight.

- First, it is important to note that I will dismiss the 200+ possession of marijuana cases that are currently pending, which cannot be proven beyond a reasonable doubt based on since HB 1325 changed how the state defines marijuana by legalizing any substances from the cannabis plant with 0.3 percent or less THC content. Practically, this placed the burden on district attorneys to prove a substance is marijuana based solely on its THC level. However, few agencies in the state and none in Harris County have the equipment to determine THC levels. As a result, prosecutors are unable to prove (beyond a reasonable doubt) that a substance is marijuana (illegal) versus hemp (legal), without a laboratory analysis. Thus, justice requires us to decline to even prosecute marijuana cases. I would even

2. Increase diversion opportunities for nonviolent felony offenses.

- Diversion programs divert people from jail and prison and keep people in the community instead of being locked up. While most diversion programs are for people facing misdemeanor charges, I will work to craft diversion programs for people facing felony charges with the hope that working with people who commit more serious offenses may offer the greatest payoff in terms for reducing recidivism. We would not deny the opportunity for diversion because a person could not pay nor would we require a defendant's admission of guilt in order to participate if the admission of guilt if it is not needed to promote the overall goals of the diversion program. For example, nonviolent felony cases to be diverted from state jail or prison include but are not limited to prostitution (4th offenses), drug, and retail theft offenses (with payment of full restitution).

3. Request shorter community supervision periods to encourage successful completion of the probation.

- Research shows that most probation violations occur within the first twelve (12) months. Assuming that a probationer completes the first twelve months of his or her probation without committing a new law violation, any excess supervision can be an inefficient use of supervisory expenditures. To avoid probationers from being revoked and sent to state jail or prison, they should be set up for success from the outset. Shorter probation periods could contribute to a probationer successfully completing the terms of their probation requirements as well as their debt to society versus going to state jail or prison on a revocation.

4. Decline to revoke felony probations for technical violations.

- Most technical violations include the probationer's failure to pay fines and fees. In those instances where a felony probationer is indigent or lacks the funds due to unemployment or underemployment, we would not revoke to send to state jail or prison because being poor is not a crime. Where felony probationers face technical violations involving more



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than the payment of fines or fees, prosecutors may consider jail time or other alternatives to state jail or prison. This proposal does not pertain to all revocations based on new law violations.

5. Avoid overcharging and limit sentencing enhancements simply to increase the range of punishment.

- I will establish clear Intake guidelines to charge cases based on the facts and circumstances of a case necessary to achieve offender accountability and justice, especially where a victim is involved. Additionally, because “the war on drugs” failed to make our communities safer and instead resulted in destructive prosecution disproportionately affecting communities of color, I will end the policy of enhancing new felony cases with prior drug convictions simply to enhance increase the range of punishment (at the time of charging).

Fight Racism in the Criminal Legal System

Many aspects of our criminal legal system were designed during the Jim Crow-era to protect white supremacy. That legacy drives vast racial injustices. One out of every three Black boys are incarcerated in their lifetime, as is one in every six Latino boys — compared with one of every 17 white boys. In Texas, Black People make up 33 percent of the prison population, but only 13 percent of the state population.

2. Will you make it part of your Office’s mission to reduce racial disparities that arise from police practices, work with police and other agencies to meaningfully compare and address racial disparity at different points in the system, and if you meet resistance, propel changes by declining to proceed with cases that are clouded by a pattern of racist conduct?

Yes No

Explanation (optional): _____

Increasing transparency and addressing racial disparity is a priority of my campaign. Historically, and even today, Harris County has a criminal justice system infected with racism and that discriminates against the poor and people of color. As your elected District Attorney, I will restore trust and confidence in the system because I believe that government exists to provide justice for all regardless of one’s race, gender, sexual orientation, or socioeconomic status. As the gatekeepers of America’s criminal justice system, prosecutors utilize their discretion to make decisions that have a tremendous impact on the people and communities they serve. I believe prosecutors must be willing to redesign certain components of the system to ensure the justice system works for everyone and not just a few. Historically, communities that are marginalized in other systems are most marginalized in the criminal justice system. Evidence-based research proves that racial disparity exists at every stage of the justice system. Possible causes include the over-policing of communities and biases displayed by criminal



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justice professionals throughout the system, who have benefited from the way the system is currently set up.

I will boldly confront these issues by analyzing data (for example, how cases resolve to display an over-charging from when the case initiated) and working to promote a more fair and equitable relationship with the communities they serve. I am committed to ending the disparate overly harsh impact of the criminal justice system on people of color. I will be a caring leader for all of Harris County and will develop a Community Prosecution Unit that will interact with and solicit input from communities that have historically been overrepresented in our jails and prisons. By adopting policies and creating diversionary and restorative justice programs that will be inclusive and nondiscriminatory, we can achieve accountability and restoration for victims and the accused in a way that promotes equity and more cooperative relationships between law enforcement and the communities they serve.

Regarding my ability to address any resistance to address racial disparity, I will rely on my ability to negotiate and advocate as a trial attorney. Having worked across both ends of the aisle, as a high-level prosecutor and as a criminal defense attorney, I have the credentials to be a strong voice against any opposition (including law enforcement) or attempts to mislead the public about the benefits of addressing racial disparity in our criminal justice system. Being fluent in Spanish has helped me understand the concerns of immigrants facing criminal charges and/or deportation; and as District Attorney, I will allow all of my experiences to inform my policy and decision-making and lead from a place of strength and compassion.

3. Will you track and regularly release race and gender data for actions including bail requests, charging decisions, plea bargains, sentencing recommendations, and parole board recommendations, and permit an outside source to review the data, evaluate disparities, and make recommendations to reduce them?

Yes No

Explanation (optional): _____

Sunshine is the best disinfectant. I, therefore, will be open and candid about District Attorney Office policies and procedures. I believe that tracking race and gender data can be helpful in assessing whether, as a system, we have implicit biases that are affecting our decisions from charging to case disposition. Tracking this data can also be helpful in conducting a cost-benefit analysis of charges, programs, and outcomes. To the extent possible and without invading the privacy of individuals, I will permit an outside source to review the data, evaluate disparities, and make recommendations to reduce them.

4. Will you commit to implementing policies and practices that combat bias in decision-making within your office, by regularly bringing in experts to train staff and prosecutors on implicit and explicit bias, by prioritizing inclusive hiring and promotion, and by ensuring the office is racially and ethnically diverse?



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Yes No

Explanation (optional): _____

Today, the district attorney's office has a leadership vacuum that is an obstacle to justice. There is a significant lack of minorities in the office's current full-time leadership structure. My staff will be racially and ethnically diverse, and will prioritize inclusive hiring and promotion. Implicit bias is a real problem in the criminal justice system, and most people are unaware of their own internal biases. Extensive and repetitive training on this matter is critical and I will require it for my staff. I will only hire prosecutors who will abide by my objectives to work with all justice partners and community stakeholders with a goal of public safety that takes into account the underlying principles intended to **Atone, Change, and Empower**, aka "ACE." The ACE concept requires prosecutors ATONE for unfair and discriminatory prosecutorial policies like ending the DA's reliance on cash bail to coerce plea bargains that has contributed to mass incarceration and by supporting the expansion of a conviction integrity unit that will focus on finding truth rather than defending the past. We will then be able to CHANGE the legacy of discrimination with the criminal justice system by collaborating with stakeholders to develop best practices that facilitate safety in a culturally inclusive manner. Finally, we will develop policies that will EMPOWER communities by creating restorative justice and diversion opportunities designed to facilitate accountability and healing.

I will work to ensure that line prosecutors are not only trained by traditional training programs but establish relationships with prosecutor associations who support progressive justice reform, to ensure there is no disconnect between me, as the elected district attorney, and the line prosecutors' view as it relates to ensuring reform is prioritized. I will train prosecutors about the burden of proof to convict and how to offer the appropriate punishment for cases so that the focus is on the actual guilt and/or rehabilitation so that sentences are appropriate and not excessive. I also strongly believe that prosecutors, attorneys, law professors, and law enforcement professionals committed to progressive justice reform should manage the in-house training provided to District Attorney staff. By adopting this intentional approach, line prosecutors will be trained to reimagine the role of the prosecutor as focused on the impact of the criminal justice system on every person impacted by it, from victim to accused person to their respective families, and to their communities.

End the War on Drugs

Keep People Out of Jail and Prison for Drug-Related Offenses

Incarcerating people for problematic drug use is a waste of money and time that often victimizes and destabilizes an already vulnerable population – disproportionately people of color and poor people -- who are then released to the streets with no rehabilitative support, leading to more crime and overdose deaths. Treating drug use as a public health issue is a more effective approach to reducing harm and promoting stability and safety.



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- 5. Will you issue public statements in support of statewide legislation that makes possession of a gram or less of controlled substance a Class A misdemeanor rather than a felony?

Yes No

Explanation (optional): _____

Prisons are too often a for-profit venture that has grown on the backs of those addicted to drugs and poor people. It is not logical to charge and convict anyone of a felony for possession of less than a gram of any controlled substance. Society is not made safer and the financial costs to taxpayers and the personal costs to the offenders are excessive. I would strongly support this legislation.

- 6. Will you decline to prosecute all cases involving only possession of a gram or less of a controlled substance unless there is evidence that the accused person poses a danger of serious physical harm to another member of the community?

Yes No

Explanation (optional): _____

As an elected district attorney, I will take an oath to uphold the laws of the state of Texas. However, I also recognize that I will have discretion to decline to prosecute cases which, in the interests of justice, do not justify prosecution of a drug cases containing less than one gram of a controlled substance. However, I will leave the door open to prosecution for this offense where there is danger of serious physical harm or other appropriate reasons such as, for example, a peace officer in possession of a gram of heroin or a teacher who has a gram of cocaine in her classroom desk.

- 7. Will you either offer diversion or decline to prosecute all cases involving only possession of less than four grams of a controlled substance unless the accused person poses a danger of serious physical harm to another member of the community?

Yes No

Explanation (optional): _____

At a minimum, pretrial diversion should be available for someone accused of possessing less than four grams of a controlled substance.

- 8. Will you decline all charges against defendants accused of drug possession until a laboratory report is completed?

Yes No

Explanation (optional): _____



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Too often, field tests show a positive result but the laboratory result is negative. Field tests are often unreliable so I will not charge a defendant with possession of a controlled substance until a laboratory analysis is complete.

Stop Wasting Time and Money on Marijuana Offenses

The aggressive enforcement of marijuana possession laws needlessly ensnares thousands of people, disproportionately people of color, into the criminal justice system and wastes millions of taxpayers' dollars. What's more, it is carried out with staggering racial bias.

9. Will you issue public statements in support of statewide legislation aimed at decriminalizing marijuana?

Yes No

Explanation (optional): _____

The best course would be to legalize the possession of small amounts of marijuana. At a minimum, it should be decriminalized because the prosecution of marijuana has negatively impacted communities of color.

10. Will you either dismiss or decline to prosecute all misdemeanor possession of marijuana cases, without conditioning declination or dismissal on completion of a diversion class, unless there is evidence that the accused person poses a danger of serious physical harm to another member of the community?

Yes No

Explanation (optional): _____

Under the current administration, marijuana cases are being filed in Harris County even though they cannot be proven beyond a reasonable doubt due to the lack of laboratory testing to rule out whether the substance is hemp. I will decline to file and prosecute marijuana cases because we lack the testing equipment to prove the case beyond a reasonable doubt. I believe that persons accused with possessing marijuana should either be arrested or processed via a cite & release process since the District Attorney's Office cannot currently prove these cases.

Principle 1: End Wealth-Based Disparities

End Money Bail and Support Pretrial Fairness

Texas' continued use of unjust money bail policies contributes to mass incarceration and unfairly punishes people who don't have money by keeping them incarcerated simply because they cannot afford to pay bail. Wealth-based detention denies most people a fair chance at justice, disproportionately affecting Black people and other people of color. Moreover, secured money bail is no more effective than non-secured money bail.



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11. Will you issue public statements in support of statewide legislation and local ordinances aimed at eliminating money bail?

Yes No

Explanation (optional): _____

Cash bail does not make communities safer. Notably, the current District Attorney's opposition to misdemeanor bail reform was the main reason I left the District Attorney's Office last fall. I strongly believe that pretrial release should not be based on a person's financial ability to make bail. Pretrial release should not be a question of money because that type of system is more likely to make our society more dangerous and is unfair to indigent people. I, therefore, agree with the order issued by Judge Lee Rosenthal in the Harris County bail lawsuit. For felony offenses, under current law, judges must consider certain factors in deciding the amount of bail. I also believe that even for felony offenses, pretrial release should be based on considerations other than financial ability, such as whether an accused offender is a danger to society or an offender is likely to flee from the county to avoid facing the charges. For example, if bail is set at \$50,000 for a wealthy but dangerous person, that person can make that bail and will be released from jail, which makes our society unsafe. Similarly, if bail is set at \$50,000 for the same offense alleged against an indigent but non-dangerous person, that person will remain confined at a high cost to the taxpayers and he or she will likely become unemployed, which also harms our general society. By mistakenly focusing pretrial release on the amount of cash attributable to each type of accusation, as compared to whether a person is a risk to the community or a risk of absconding, judges have historically made Harris County less safe, increased costs to taxpayers, and harmed accused people. When elected, I will be proud to stand with proponents of more widespread bail reform (including felonies) taking into consideration the safety concerns of the victim as well as the investigation conducted by law enforcement.

12. Will you issue public statements in support of statewide legislation and local efforts to provide defendants counsel at magistration?

Yes No

Explanation (optional): _____

I have served as a prosecutor under three elected prosecutors. During my first tour from 2005-2009, defendants were not afforded counsel at the magistrate hearings. I remember working Intake and although the prosecutor argued the state's position, the defendant was denied the right to counsel, leaving his or her bail determination completely up to the judge, who was often persuaded by the prosecutor. Ethically and morally, it was a victory when defendants in Harris County were afforded legal counsel at magistration hearings because it allowed scales of justice to be more balanced in each case. I would support such legislation.

13. Will you recommend release on personal recognizance bond for all defendants unless your office makes an individualized determination of safety and flight risk?



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Yes No

Explanation (optional): _____

Cash bail does not make communities safer. The Constitution provides that defendants are presumed innocent until found guilty. The eighth amendment further provides that persons accused of a crime are entitled to a bond that is not excessive. Bail is a judicial function and the final decision on bond lies within the judicial branch. However, prosecutors often make recommendations on the bond issue. Accordingly, I will establish a policy that prosecutors may recommend release based on personal recognizance unless prosecutors determine either from the facts of the underlying case or via a nondiscriminatory research-based assessment that the defendant poses a risk to a victim, to the community safety, or is a flight risk.

14. Will you only recommend secured bond as a condition of pretrial release in cases where there has first been an individualized ability to pay determination, the amount requested is based on what a person can presently afford, and there has been a determination that no non-monetary conditions can ensure appearance at court and public safety?

Yes No

Explanation (optional): _____

I agree with the order issued by Judge Lee Rosenthal in the Harris County bail lawsuit. For felony offenses, under current law, judges must consider certain factors in deciding the amount of bail. I also believe that even for felony offenses, pretrial release should be based on considerations other than financial ability, such as whether an accused offender is a danger to society or an offender is likely to flee from the county to avoid facing the charges. For example, if bail is set at \$50,000 for a wealthy but dangerous person, that person can make that bail and will be released from jail, which makes our society unsafe. Similarly, if bail is set at \$50,000 for the same offense alleged against an indigent but non-dangerous person, that person will remain confined at a high cost to the taxpayers and he or she will likely become unemployed, which also harms our general society. By mistakenly focusing pretrial release on the amount of cash attributable to each type of accusation, as compared to whether a person is a risk to the community or a risk of absconding, judges have historically made Harris County less safe, increased costs to taxpayers, and harmed accused people. When elected, I will be proud to stand with proponents of more widespread bail reform (including felonies) taking into consideration the safety concerns of the victim as well as the investigation conducted by law enforcement.

Make Diversion Routine and Accessible to All

Well-designed diversion programs can safely divert people from jail or prison, or from the justice system entirely, can reduce recidivism, conserve resources, and diminish the collateral harms of criminal prosecution.



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15. Whenever possible, will you ensure people are not excluded from diversion programs because of their criminal history, mental illness, or drug use?

Yes No

Explanation (optional): _____

Unfortunately, the current administration has few diversion programs that have any meaningful impact on the system due to their narrowness in scope or use in relation to the number of criminal cases filed in this county. I will provide diversion programs in a more expansive, more effective, and more inclusive manner than ever utilized in Harris County to date. For example, under the current diversionary programs in Harris County, a person is criminally charged with a misdemeanor marijuana offense, diverted to a program, pays for the program, and then the charges are dismissed. I will approach diversionary programs differently. Depending on the offense, my diversion programs will be available BEFORE and AFTER a charge is filed so that defendants have an option of avoiding the stigma of a criminal accusation. I would also expand the availability of diversion programs to other offenses committed by financially challenged people and people in need of drug treatment. These types of programs would be available for misdemeanor or state jail level marijuana offenses, shoplifting, theft by check, driving with a license invalid, and other offenses. My diversionary programs will have goals of restorative justice prior to the filing of the criminal charge. For example, during my time as a prosecutor, I wrote a \$1.3 million grant to fund the Harris County Domestic Abuse Response Team (DART), which enhances the investigation and prosecution of domestic violence cases in order to reduce domestic violence related homicides. DART teams are comprised of a police officer and a victim advocate whose sole responsibility is to respond to domestic violence crime scenes to provide crisis intervention to stop the cycle of violence. Regardless of whether a criminal charge is accepted or not, DART teams serve survivors and link them to community partners who facilitate restoration, long term safety planning, and healing. I am very proud of the DART program, but many more innovative programs like DART are needed in Harris County. My leadership will concentrate on training and mentoring the hundreds of employees in my office with my clear vision about the meaning of restorative and rehabilitative justice. My policies will add fairness in the criminal justice system that will benefit all people who interact with police and prosecutors.

16. Will you avoid, whenever possible, imposing costs of diversionary program participation on individuals and basing costs, if necessary, on a "sliding scale" fee structure that considers an individual's ability to pay?

Yes No

Explanation (optional): _____

I will work with Harris County's Commissioner's Court to obtain funding so these programs can be free for indigent people. Unfortunately, the current District Attorney's diversion programs are cost prohibitive preventing many people from taking advantage of the opportunity and benefits of diversion.



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17. Will you allow defendants to participate in diversion programs without an admission of guilt, if the admission isn't needed to promote the goals of the program?

Yes No

Explanation (optional): _____

Avoid Criminalization of Poverty & End Debtor's Prison

As a former immigration attorney, I know that noncitizens charged or convicted of a crime risk prolonged detention and deportation. Research also shows that the mere threat of deportation discourages crime victims from reporting crimes, which makes our community less safe. Accordingly, because the actual admission of guilt, whether made during a diversion or traditional plea bargain (i.e. jail time or community supervision) causes such collateral harm, I would not require a defendant's admission of guilt to participate if that admission is not needed to promote the overall goals of the diversion program.

18. Will you make pretrial release, plea agreements, diversionary programs, and other favorable sentencing programs available to all defendants, regardless of ability to pay?

Yes No

Explanation (optional): _____

Being poor is not a crime. Yet, our local criminal justice system disproportionately harms people living in poverty. Whether through cash bail, the imposition of fines and fees as a condition to resolving cases, or costly diversion programs, my administration will not impose a poverty penalty on people. Instead, I will work with county officials to reallocate and harness existing resources to make these liberty-bearing options affordable and accessible to everyone regardless of their ability to pay. In regard to retail theft cases, it will be required that all diversionary programs include payment of full restitution.

19. Will you oppose incarceration based upon the failure to pay fines, fees, court costs, failed to complete classes or restitution unless there is uncontroverted proof the individual is able but willfully refusing to pay?

Yes No

Explanation (optional): _____

As stated throughout this questionnaire, being poor is neither a crime nor a circumstance worthy of punishment. Therefore, "barring uncontroverted proof the individual is able but willfully refusing to pay," I would oppose incarceration based upon the failure to pay fines, fees, court costs, pay restitution, and/or complete classes. Notably, because victims are statutorily entitled to restitution, my administration would work with the victim and defendant (and their attorney) to determine an agreed alternative to payment of restitution such as community service hours or



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working off their time at the victim's business, where applicable. These instances will be evaluated on a case-by-case basis.

Principle 2: Fair Sentencing, Charging, and Plea Bargaining Practices

Treat Kids Like Kids

Long-term outcomes for teenagers, young adults, families and communities are better when youth have as little contact with the criminal justice system as possible, or when their cases remain in juvenile court. Putting youth in adult prisons leads to more crime, higher prison costs, and increased violence. Moreover, the adolescent brain differs from the adult brain in ways that increase the likelihood of risky and reckless behavior.

20. Will you decline to prosecute children for typical adolescent behavior such as fist fights, smoking marijuana, disorderly conduct, or other infractions at school that do not result in serious physical harm?

Yes No

Explanation (optional): _____

Far too often, the Harris County criminal justice system has criminalized infractions that should have been handled at home or through the school system. Juvenile incarceration can be destructive to the student's future and social and emotional well-being. Instead of accepting jail as the status quo for our children, I will establish a juvenile justice "think tank" comprised of school administrators, school district police departments, juvenile behavioral specialists, and community-based advocates working in the juvenile space to create innovative solutions to hold children accountable yet be safely diverted away from the criminal justice system. This think tank will also offer employees working in our county's school districts training on matters such as de-escalation and mental health. In general, I will not seek incarceration for children and teenagers while their cases are pending. In those cases where a juvenile cannot be safely supported with their parents, I will advocate for detention alternatives such as day supervision and treatment centers.

21. Will you decline to seek certification as an adult for children under the age of 18?

Yes No

Explanation (optional): _____

I will base the evaluation on factors such as the defendant's background and circumstances of the offense. In almost all cases, and most likely in all cases, I will decline to seek certification as an adult for children under the age of 18. However, there could be limited exceptions, such as an offender who is 17 years and 364 days old who intentionally commits an act of mass terrorism



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resulting in the deaths of many. When a child must be tried as an adult, I will instruct prosecutors to consider a sentence at the lower end of the punishment range, unless individual circumstances suggest otherwise. At that time, a prosecutor would need to obtain supervisor approval.

22. Will you adopt an office-wide policy stating that your office will never seek the death sentence for any person under the age of 18?

Yes No

Explanation (optional): _____

I agree with this statement. Regardless of any district attorney's views on this, the constitution disallows a death sentence for anyone under the age of 18.

Do Not Seek the Death Penalty

In 2018, Texas executed more people than any other state. There is mounting evidence that the death penalty is fraught with error, provides no additional public safety benefit over other available sentences, and is routinely used against individuals with diminished capacity, including persons with intellectual disabilities and severe mental illness, youth, and those who have experienced extreme childhood trauma.

23. Will you commit to never seek the death penalty?

Yes No

Explanation (optional): _____

I agree and acknowledge that the application of the death penalty, across our nation, is racially discriminatory. According to a factsheet designed by the ACLU Death Penalty Campaign, "Studies which examine the relationship between race and the death penalty have now been conducted in every active death penalty state. In 96% of these reviews, there was a pattern of either race-of-victim or race-of-defendant discrimination, or both. [And] Approximately 35% of those executed since 1976 have been black, even though blacks constitute only 12% of the population. The odds of receiving a death sentence are nearly four times higher if the defendant is black than if he or she is white." This is patently unfair and unconstitutional.

As an elected District Attorney, I will be sworn to uphold the laws of this state, which includes the death penalty. I also believe that an elected district attorney risks a takeover by the Governor of Texas if he or she definitively indicates that he or she will "never" enforce a particular law at any time under any circumstances. In Texas, the Governor has inserted himself into Travis County by creating a "camp" for homeless people and by taking over the Houston Independent School District. In Florida, for example, the Governor took over the prosecution of capital murders because the elected district attorney said she refused to seek the death penalty, leaving



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the elected prosecutor powerless to express her beliefs or exercise her discretion in capital cases. A candidate for district attorney who definitively answers this question “yes” will likely face a takeover by the Texas Governor to strip their jurisdiction in all capital murder cases, which could likely tragically lead to more death penalty sentences in Texas. For that reason, I believe that the most prudent course when questioned about absolute refusals to enforce particular laws should to be less definitive.

Fortunately, today’s reality is that the death penalty has virtually been eliminated in terms of new death sentences in Texas. Harris County had only one new death sentence in 2019, in stark contrast to the historical excessive use of the death penalty in this county. I believe that this is a positive result for the criminal justice system. Today, in Harris County, the real challenge with the death penalty involves executions. Harris County is a leader in the number of people who are actually executed and many of those convictions are fraught with problems that must be addressed through post-conviction litigation. Reallocating existing resources to address post-conviction matters should be at the forefront of our criminal justice reform conversation. Effective post-conviction litigation is needed for death and non-death cases to undo decades of mistaken convictions and excessive sentences, which stem from Brady violations, ineffective assistance of counsel, junk science, and many other circumstances. Under the current administration, a small division comprised of two to five prosecutors inadequately addresses post-conviction matters. This structure is wholly inadequate for the third largest county in the United States and for the county that has sent more people to death row than any other in this country. I will reallocate resources and work with Commissioner’s Court to get additional resources, if needed, to double personnel in this division and instruct them that the proper approach for post-conviction cases is to deconstruct the cases to begin from the ground up rather than starting with the existing conviction and finding ways to uphold it. I will instruct post-conviction prosecutors not to assert procedural bars in death penalty cases as reasons for courts to avoid resolving the substantive issues raised by defendants. For all post-conviction cases, I will request that a trial court appoint legal counsel for indigent defendants who we discover may have arguable claims for habeas relief.

Fair Sentencing, Charging, and Plea Bargaining

Elected prosecutors have nearly unchecked authority to decide whether someone will be charged with a crime, which crimes to prosecute, and who gets a second chance through diversion or treatment programs. In the past forty years, elected prosecutors across the country have sought more severe sentences and punishments and fueled our country’s mass incarceration crisis.

24. Will you commit to decline prosecution of quality-of-life offenses, including criminal trespass, public urination, and driving without a license, which do not add to public safety but carry devastating consequences for poor defendants?

Yes No

Explanation (optional): _____



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Harris County has an unfortunate legacy of imposing unfair excessive punishments against certain segments of our community, particularly groups that have been plagued by poverty. The impact of that legacy has caused collateral and long-term harm across generations of people. As Harris County's elected District Attorney, I will change the culture of the office to focus on people who we are afraid of rather than crimes that stem from poverty, drug addiction, or mental illness so that tax dollars are not being used to prosecute offenses that have little to no impact on public safety.

Accordingly, I will generally decline to prosecute crimes such as criminal trespass, public urination (often charged as indecent exposure), and driving without a license, where the impetus is poverty rather than criminal intent; and recommend these cases be handled via a cite and release process or precharge diversion option. Notably, because every case is different, prosecutors must analyze each individual case and consider whether the circumstances are truly poverty related. For example, if someone enters my detached garage and is visibly angry with me but refuses to leave no matter how many times I ask, probable cause exists for that person to be prosecuted for trespass. However, as mentioned above, I would work with law enforcement to establish procedures to hold these defendants accountable in a way that offers justice for me as the victim and that prevents them from being arrested, jailed and made to pay a cash bond.

I would also add that there are other issues that arise from prosecution and conviction of the aforementioned quality-of-life offenses, which are Class A and B misdemeanors. For example, and where legally appropriate, when people are arrested but exonerated for quality-of-life offenses, the district attorney should agree to clear their records so they are more employable. The current district attorney has not led in this arena in regard to cases higher than Class C misdemeanors. Like in Dallas County, I will partner with nonprofit legal service agencies like Lone Star Legal Aid and Beacon Law as well as the local judiciary to clear the criminal records of eligible people through Motions for Expunction and Petitions for Non-Disclosure. Sadly, many people whose cases are dismissed or who are placed on deferred adjudication, don't know they are eligible for expunction or nondisclosure. Many cannot afford to hire an attorney to even start the process. The District Attorney's Office should proactively advertise these options and not oppose expunctions and nondisclosures for people whose lives are negatively impacted by old, past mistakes and who are eligible, by law, to have their records cleared.

22. (or #25) Criminalizing consensual sex work makes sex workers vulnerable to violence and abuse by limiting their ability to seek help or protection. In particular, criminalization of consensual sex work leaves people who are excluded from traditional employment opportunities, including transgender people and other members of the LGBTQ+ community, vulnerable to harm. Will you decline to prosecute arrests stemming from consensual sex work?



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Yes No

Explanation (optional): _____

As a general proposition, I agree with this statement. I will use my prosecutorial discretion to refuse any charges that do not serve the public good, such as declining a prostitution charge against a person who is a victim of human trafficking. This is a complicated issue. There is some research that shows that the prosecution of only the buyers leaves the sellers with risky and dangerous clientele so there are problems that arise from the prosecution of buyers only. The Philadelphia District Attorney's Office had a policy of filing charges against repeat offenders and not charging first arrests. I would consult with the larger prosecutor-offices in this country and with stakeholders, including trafficking survivors and former sex workers, to develop a policy that takes the special concerns of sex workers into consideration so that dismissal and leniency is preferred over prosecution to the greatest extent that is reasonable.

23. (or #26) Locking people up for long periods of time does little to improve safety and may actually lead to more crime as people spend more time in prison. Further, studies have found that people almost always "age out" of crime. Will you direct your prosecutors to never seek more than 30 years in prison as a maximum penalty, except in unusual cases such as a mass murder?

Yes No

Explanation (optional): _____

I generally agree with the statement and the underlying research that states that people "age out" of crime. However, because every case is different and prosecutors don't dictate case facts, I am not willing to offer a blanket cap of thirty years in prison, as a matter of course. For example, if a person is charged with aggravated robbery and has two separate prior convictions - 1) Murder (having received a 30 year sentence) and Sexual Assault (having received a 5 year sentence), the statutory minimum for the aggravated robbery offense would be 25 years in prison. It would appear unlikely that that person would "age out" of crime. However, because I acknowledge that for most defendants, excessive prison and other punishments have no relationship to the safety of our communities. I will require line prosecutors to seek approval from division chiefs for any punishment exceeding 30 years and encourage appropriately lenient sentences and rehabilitation of defendants. This perspective brings families together so that children can be united with their parents, thereby strengthening the long-term stability of our communities.

24. (or #27) Will you establish an office policy against increasing or threatening to increase the number or severity of charges, the severity of a sentence, or seeking or threatening to seek transfer of a case from juvenile to adult court in order to secure more favorable plea dispositions or waivers of rights?



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Yes No

Explanation (optional): _____

Coercion leads to the wrongful conviction of innocent people. I will instruct prosecutors not to use those tactics to secure more favorable dispositions or waivers of rights. Those tactics do not promote the interests of justice.

25. (or #28) Will you vehemently oppose any attempt to criminalize either a doctor performing or a patient seeking an abortion? Please select "Yes" or "No" and provide any explanation you would like.

Yes No

Explanation (optional): _____

Abortion does not belong within the criminal justice system. Period.

Reduce Re-incarceration for Petty Probation Violations

Probation revocations are fueling mass incarceration in Texas. In part, this is because excessive community supervision increases the likelihood that people who are otherwise at low risk of being rearrested will end up incarcerated for petty technical violations, such as failing to pay fines or fees and other acts that do not threaten public safety. The majority of violations occur within the first year, suggesting that lengthy supervision serves little to no rehabilitative purpose.

26. (or #29) Will you direct your prosecutors to generally not ask for jail, state jail, or prison time for technical violations of community supervision?

Yes No

Explanation (optional): _____

Most technical violations include the probationer's failure to pay fines and fees. In those instances where a probationer is indigent or lacks the funds either to unemployment or underemployment, I would instruct prosecutors to NOT revoke someone because being poor is not a crime.

27. (or #30) To prevent re-incarceration on technical violations, will you direct your prosecutors to seek probation terms of one year or less for misdemeanors and the minimum required probation terms for felonies unless there is compelling reason for a longer term?

Yes No

Explanation (optional): _____

Research shows that most probation violations occur within the first twelve (12) months. Assuming that a probationer completes the first half of their misdemeanor probation of the first



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twelve months of his or her felony probation without committing a new law violation, any excess supervision can be an inefficient use of supervisory expenditures.

We must correct the mindset of the past that appeared to create probation terms that were designed so that few defendants could complete them and that caused many to give up on completing the probations in favor of short prison terms. To avoid probationers from being revoked and sent to state jail or prison, they must be set up for success from the outset. Shorter probation periods could contribute to a probationer successfully completing the terms of their probation requirements as well as their debt to society versus going to state jail or prison on a revocation. Probation terms must be realistic so that a defendant can see the light at the end of the tunnel and is motivated for success.

Protect Immigrant Communities

Criminal charges, convictions, and pretrial detention can trigger deportation proceedings for people who are not U.S. citizens. These threats, as well as the targeting of immigrant communities by extremist politicians, can discourage the reporting of crimes, making communities less safe. Moreover, the U.S. Supreme Court in *Padilla v. Kentucky* suggested that when prosecutors consider immigration consequences, more just outcomes can be obtained for all parties.

28. (or #31) Will you train and direct prosecutors to consider the immigration consequences of a conviction during each stage of a case, and to choose immigration-safe dispositions when possible and appropriate?

Yes No

Explanation (optional): _____

I pledge to train prosecutors to know, understand, and consider the collateral consequences of their decisions for all people accused of crimes, especially when the consequences are so severe like deportation. I will consult with immigration and family law attorneys as part of the training for prosecutors and will conduct training sessions on the immigration and family law consequences that flow from criminal convictions. Furthermore, I will work with justice partners to establish pre-charge diversion programs. For example, if a non-citizen without any criminal history slaps his wife, he will likely be arrested for a misdemeanor domestic violence charge and an immigration hold can be placed on him. His prolonged detention in jail due to his immigration status would prevent him from taking advantage of any diversion or community supervision program deigned for people charged with a misdemeanor domestic violence offense. For situations like these, I will work with the Harris County Sheriff and treatment service providers to ensure that this defendant and similarly situated defendants are not denied the right to participate in treatment and programs, while in custody, that if taken in the free world could lead to the dismissal of their charges. This is an example of the various innovative solutions we can establish to promote equity and avoid discrimination against people based on their immigration status.



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29. (or #32) Will you publicly oppose policies that use or divert local law enforcement resources for federal immigration enforcement?

Yes No

Explanation (optional): _____

As the elected District Attorney, I would be sworn to not violate state or federal laws. In any event, I will stand with the Sheriff in his position that county government should not detain individuals subject to deportation past their release date. I also agree with the Harris County Commissioners Court's development of a Managed Assigned Counsel to ensure that attorneys appointed to indigent defendants are qualified and that advice from immigration attorneys is made available to those persons who face significant immigration consequences.

I also pledge to instruct prosecutors to notify the court upon any realization of the presence of ICE agents and to ask the judge to prohibit the agents from interacting in any way with victims, witnesses, and defendants within the courtroom.

30. (or #33) To protect immigrant crime victims, will you pledge to adopt and promote a written U Visa policy in your office that includes a rebuttable presumption of helpfulness and the direction that U Visa certifications be completed regardless of whether charges were brought, a conviction was achieved, or the case has concluded?

Yes No

Explanation (optional): _____

I will require all District Attorney's victim advocates and social workers to discuss the U-visa application process during their initial contact call with a crime victim so they can make an informed decision to pursue this option as soon as possible. Additionally, I will expand the current U-Visa process to more expansively apply regardless of whether charges were brought, a conviction was achieved, or the case has concluded. I believe the policy of the current District Attorney is narrow in that it reviews law enforcement certification requests for active criminal cases pending in a county, district, or juvenile court or for up to five years after the resolution of the case. This method is restrictive because it limits the timeframe for U-visa certification to five years after the case is disposed, which effectively results in a denial of the visa to an immigrant. Accordingly, I will not only expand the internal policy, I will establish memorandums of understanding with organizations like DAYA, Tahirih Justice Center, Houston Immigration Legal Services, and the Immigration Clinic at University of House Law Center to advise victims on their rights as well as train social workers, and prosecutors on how to utilize U-Visas certifications, T-Visas, and VAWAs, which is a form of cancellation removal designed to keep victims of abusive partners or parents from being deported.

31. (or #34) Many noncitizens are not adequately advised by defense counsel of the immigration consequences of their guilty pleas and are subject to unanticipated mandatory deportation



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after completing their criminal sentences. Will you be willing to establish an office point person who reviews motions to vacate convictions and, when appropriate, agrees to stipulate to such motions? Will you identify a point person to ensure immigrant defendants are aware of the consequences of pleading guilty?

Yes No

Explanation (optional): _____

I pledge to dedicate a single prosecutor within the post-conviction section of the District Attorney's Office to serve as a point of contact to work with the Harris County Public Defender's Office and the private and appointed defense bar to review motions to vacate convictions. This point of contact will be available as a resource for the entire office for purposes of ensuring we have adequate training and procedures for ensuring that defendants are aware of the consequences of pleading guilty.

Transparency and Community Trust

32. (or #35) Will you pledge to publish on the Office website all existing policies, protocols, and MOUs regarding prosecution guidelines, police-involved incidents, bail recommendations, fines and fees, diversion programs, plea bargains, civil asset forfeiture and determination of indigence?

Yes No

Explanation (optional): _____

33. (or #36) Will you develop and implement a "Do Not Call" witness list for law enforcement officers in your jurisdiction? Will you require all prosecutors in the office to reject new cases and search warrant requests from police officers with histories of misconduct, dishonesty, racism, or bias?

Yes No

Explanation (optional): _____

The current District Attorney's Office has a "Brady" database that logs officers who have a history of misconduct, dishonesty or discrimination. I would continue this practice. I would allow criminal defense attorneys to have access to the information in the file with respect to officers involved in the arrest and prosecution of a defendant's case. For officer safety purposes, I wouldn't reveal officers' identities to the general public. As to the public at large, I will provide the exact number of officers employed by each agency because the community is entitled to know which agencies employ officers who have a history of misconduct, dishonesty, racism, or bias.

I will create a policy that would require prosecutors to check the Brady database before filing a new charge to determine whether the filing officer is listed in the database. If the officer is included in the database, the prosecutor shall staff the case with the Intake supervisor and the



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supervisor shall consider the facts of the case and the initial reason why the officer was included in the database. If an officer's initial inclusion in the database is based on misconduct, dishonesty, racism, or bias, the Intake supervisor shall have the right to refuse to accept the new charge. However, upon review by a division chief, the entire matter may be presented to a grand jury with all the information about the filing and investigating officers shown to grand jurors for their consideration in whether to issue a felony indictment in a case.

To further inspire community trust, I will also reallocate existing resources to establish a Community Prosecution Unit, which would be a program unique to Harris County and Texas. My initial Community Prosecution Unit will be comprised of no less than four (4) prosecutors - one assigned to each Harris County Commissioner's Precinct. Law enforcement, victims, residents, and community agencies will have immediate access to their community prosecutor to ensure their voices are heard and their concerns are addressed in a timely and respectful manner. Community prosecutors will hold monthly meetings with stakeholders to keep the lines of communication open. Any concerns about questionable actions of officers or other actors can be discussed with the community prosecutor who will meet with me on a regular basis.

34. (or #37) Will you commit to require an independent investigation when someone dies during an encounter with law enforcement or while in custody?

Yes No

Explanation (optional): _____

I will not condone or attempt to justify police officer misconduct. My office will be an honorable and effective prosecutor for those offenses. However, if there are specific instances of bias, conflicts of interest, or concerns about public trust, I will support the appointment of outside prosecutors or an independent investigation when someone dies during an encounter with law enforcement or while in custody.

35. (or #38) Consistent with the Michael Morton Act, will you implement an "open-file" discovery program and require that prosecutors turn over full discovery to the defense pre-indictment?

Yes No

Explanation (optional): _____

An "open file" policy is not enough. An elected District Attorney must instruct their line prosecutors to agree to provide the defense with all evidence in the possession of the state of Texas and work to provide all evidence gathered from the possession of all police agencies, laboratories, and experts. A District Attorney's office must be proactive to comply with a broader view of the Michael Morton Act so that all evidence is tendered to defense counsel in a timely and transparent manner.



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Yes No

Explanation (optional): _____

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Candidate Name: Carrana Cloud

Candidate Signature: Carrana Cloud

Date Submitted: 1/3/2020

I am pledging to develop policies and programs to make Harris County justice system inclusive and nondiscriminatory. As a black woman who grew up in poverty, I embraced criminal defense work because I understood that people who were driven to criminality often did so because of a lack of opportunity. I know people close to me who have been on all sides of the criminal justice system, as victim, as an accused, and a convicted person. I have witnessed the struggles their experiences have had on their lives and I acknowledge the balance between the effects of the system on the victim and the accused. I will lead Harris County to be inclusive of all people and offer innovative ideas for real change for the future.