



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.



Candidate Information

Contact Information *(For survey administrator use only)*

- a. Candidate Name
- b. County
- c. Contact Person
- d. Contact Email
- e. Contact Phone Number

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

- a. Campaign website
- b. Campaign email address
- c. Campaign phone number

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): That isn't possible and I'm not going to promise something I can't do. As a prosecutor, you don't control who and how often people violate the law. I will make this promise, I will NEVER unlawfully incarcerate ANYONE!



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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 X No

Explanation (optional): _____

- 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 X

Explanation (optional): This office is in such shambles, with people being held in jail without a speedy trial and not the prosecutorial man/woman power to process the cases. I’m not going to waste valuable resources that could otherwise be put toward administering the oath of District Attorney...which is to seek justice and follow the law. That said, I will never restrict anyone’s access to public information regarding how we are doing our jobs. The public should be entitled to all public information regarding the Justice System.

- 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?

Yes X No

Explanation (optional): 100% +...we need diverse and talented people to turn this office around. Rebuilding and training my staff is Priority #1!!!



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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.

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): I'm running for DA, not State Rep. We lost the "war on drugs" - which is the stupidest phrase I've ever heard - in 1973, when we helped put into power Augusto Pinochet. HYPOCRITES!

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): The FELONY possession of any PERSONAL USABLE QUANTITY of drugs is a waste tax payer money, as is the incarceration of people convicted of simple / personal use possession. But again, any candidate who tells you they will do this is violating the law and their oath of office. We need to put pressure on the State Legislature to change our ridiculous arcane drug laws. But as DA, even if I hate it, I have to enforce the law(s)...that is my sworn oath. Read it.

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): I will give PTI - if appropriate - to any person who possesses a personal / usable amount of illegal drugs. But I will not create a minimum or maximum cut off. If you have multiple criminal convictions and/or are a convicted drug dealer and/or possess a weapon while in illegal possession of drugs, then PTI will likely not be an option for you...that would make no sense, given the purpose of PTI.

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

Yes No

Explanation (optional): Harris County has a direct intake system and the instant rejection of charges for those arrested of drug possession - pending lab results - is not practical nor in the best interest of the community. But NO PERSON WILL BE PROSECUTED for a substance that's not illegal to possess.

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): Public statement, yes...but I cannot and will not violate my oath of office to follow the law. WARNING: If you are a State Rep or Senator who thinks our current marijuana laws make any sense, then get ready to hear from me everyday...and I'm not opposed to showing up at your office. Better pack a lunch!

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): Until this absurd law is changed, we - as District Attorneys - have to follow the law. That said, I will not ruin ANYONE'S LIFE who simply possesses a usable quantity of marijuana. Plus, if I create a Diversion Program, it will focus on making sure all have access to it...regardless of race or socio-economical background(s).



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.

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

Yes No

Explanation (optional): Monetary / Wealth-Based Bail in Harris County is a dead horse. What we need now is/are reasonable bonds that take into account the severity of the allegations, the concern(s) of crime victim(s), and the criminal history of the accused.

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

Yes No

Explanation (optional): Most important thing we can do, especially at the felony level.

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

Yes No

Explanation (optional): Not every case is warranted of a PR Bond, even if there isn't a specific and articulable concern for safety and flight. Plus, the Judges in Harris County need to have a uniform procedure / process for this, since they set bonds...not prosecutors. Everyone in the Justice System needs to do their job and be accountable! I will not let the judiciary pass the buck and not be held accountable for reasonable bonds. THAT IS THEIR JOB!

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



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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):

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.

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): Or because of their economic resources. The current DA makes people pay \$300 to screen and then \$300 to join the DWI program. Where the hell is this \$600 bucks going...PER DEFENDANT, IN THE DWI CAPITAL OF THE US!?! Absurd. Hundreds and hundreds of thousands of dollars, if not more!?

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): See Above

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

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



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effectively criminalize homelessness, local actors have imposed a poverty penalty on many people within our communities.

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 X No

Explanation (optional): See Above! You will get PTI / Diversion based solely on your lack of criminal history, type of case, and the harm (if any) to the community...PERIOD!

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 X No

Explanation (optional):

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 X No

Explanation (optional): Except for illegal drug use. AGAIN, I'm going to be the DA, not the Governor! Let's work together to change our ridiculous drug laws, and then you guys would be asking only about 1/3 of these questions!!! Seriously!!!

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



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Yes No X

Explanation (optional): Why? Have you ever handled a case where a child executed his own mother, and then cut her into pieces and wrapped her body-parts in Christmas packages!? I have...and he his brother/co-defendant were only 14 & 15. Would you have just put them in Juvie??? Or let them go home to a relative!? HELL NO!

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 X

Explanation (optional): I'm Catholic and don't believe in Murder, at any level... especially State sponsored. The law allows our State to seek death, based upon a review of several factors, including the circumstances of the death / criminal history of the Defendant / mitigation (including age and mental health of the Defendant) / and desire of the victim's family. I pray I NEVER have to face a situation wherein a person under 18 is even subject to that decision, but I'm not going to say 'never EVER.'

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 X

Explanation (optional): I do not believe in the death penalty, preventative or otherwise... but Texas is a death penalty State. I will NEVER SEEK IT UNLESS APPROPRIATE, which is incredibly hard to imagine.

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.



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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):

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?

Yes No

Explanation (optional): Prostitution is illegal in Texas, but PSA: if you are a pimp or trafficking humans, or doing anything to criminally denigrate women and/or children, you better move if I become DA. You will hate what I'm going to do to you!

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): In Texas we have jury punishment, and I'm not going to restrict the jury's ability to hand down whatever sentence they think appropriated. I've been doing this for over 20+ years and I can only think of one person pleading to over 25 years, and that person was facing the death penalty.

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 X No

Explanation (optional): _____

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 X No

Explanation (optional): I’m Catholic, but have two daughters and completely respect their choice to choose, if put in that awful predicament. Furthermore, I’m not going to seek to prosecute anyone who hasn’t violated State or Federal Law.

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.

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

Yes X No

Explanation (optional): Technicals are between the probationer and the judge! Again, ALL IN THE JUSTICE SYSTEM need to do their job with reason, compassion and common sense!!!

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 X No

Explanation (optional): In misdemeanor, probation longer and 6-9 months is a waste of time and resources, for the Defendant and the Probation Department.

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



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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.

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'm going to direct my staff to treat all Defendants the same, no matter who they are or where they came from: with dignity, respect, and due process.

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

Yes No

Explanation (optional): I worked for the feds...they could have fixed and/or mitigated this current immigration train-wreck decades and decades ago, but didn't for their own unique political gain. You want to enforce federal immigration policies, then it's on you!!! We are not now going to pay your tab, we have enough to handle.

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 help in anyway legally possible to insure ALL VICTIMS OF CRIME are protected...AGAIN, I don't care where you came from, we will protect your rights and dignity against anyone who infringes upon it.

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 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):



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Transparency and Community Trust

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):

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): I'm not even sure what this means? I will not reject a legitimate charge if probable cause exists to believe the person committed the offence. If the police officer should not be on the streets because he/she is not protecting and serving our community as pledged, then I will work with the head(s) of that law enforcement organization to make sure they are fired or re-assigned.

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):

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):



Candidate Name: Curtis 'Todd' Overstreet

Candidate Signature: CTO

Date Submitted: 1/5/2020