

## Oklahoma District Attorney Candidate Questionnaire

For more than 50 years, the American Civil Liberties Union of Oklahoma 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 cut the nation's prison population in half while combating racial disparities in the criminal justice system, the ACLU of Oklahoma is launching a public education campaign around prosecutorial discretion. Our goal is to educate voters, including members of the ACLU of Oklahoma and those directly impacted by incarceration, about the role the district attorneys play in mass incarceration. Our campaign will also work to provide voters with information about where candidates for District Attorney stand on critical criminal justice reform issues, such as prosecutorial transparency, policies that reduce incarceration, eliminating racial disparities in the criminal justice system, and ending unjust policies such as the death penalty, money bail, and civil asset forfeiture. All candidates for District Attorney in Oklahoma are receiving this questionnaire, and answers will be posted online. Through this campaign, the ACLU of Oklahoma is working to make Oklahoma voters more aware of the awesome powers that District Attorneys have and hold candidates for this powerful position accountable to their communities' fundamental need for justice, safety, and respect.

Please write your answers in this document and **email your responses** to Nicole McAfee at **NMcAfee@acluok.org** on or before **May 23, 2018**.

## **Contact Information**

Please provide constituents with your campaign contact information.

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## **Mission and Vision**

1. Will you pledge to articulate a mission and vision for the Office that places the focus on justice, rather than winning cases, and align the work of the Office—including internal and external communications, training, policies, and hiring and promotion practices—to reflect that mission and vision? Please give a clear “Yes” or “No” and any explanation.

Yes, I pledge to shift the current focus from the Top Gun Award to one where justice is the paramount concern. At the end of the day the questions should always be: did you do the right thing, was the punishment appropriate for the crime, and did you use your position to effect change in a positive manner?

## **Mass Incarceration**

2. Do you agree that prosecutors' practices have contributed significantly to mass incarceration? Please give a clear "Yes" or "No" and any explanation

Yes, I do. I have stated multiple times during my campaign as a former prosecutor I contributed to the issue of mass incarceration and now I am trying to be a part of the solution.

3. Many experts say that overcharging by prosecutors unfairly pressures defendants into pleas, even with weak or insufficient evidence. Would you pledge not to use charging decision as a tool to gain leverage over defendants? Please give a clear "Yes" or "No" and any explanation.

Absolutely, yes. The purpose of the charging process is to charge people with crimes they committed and to obtain an outcome that speaks the truth. If the evidence is weak or insufficient, as a prosecutor you have an obligation to decline those charges and request officers to investigate further. Charging should never be done in a manner to unfairly pressure defendants into plea deals.

4. Criminal justice contacts – however brief – can have negative psychological and employment effect, and often fail to address the underlying cause of crime. Will you work to expand diversionary programs so that, whenever possible, contact with the criminal justice system is avoided or limited? Please give a clear "Yes" or "No" and any explanation.

Yes. If the crime is minimal and no public interest or deterrent purpose would be served by prosecution a diversionary program would be an excellent alternative. I believe it is important to shift the focus to the underlying issues of criminal behavior and provide the resources necessary to address these in order to stop further criminal behavior. There is a special needs docket in place in Tulsa's municipal court that I believe should be replicated in misdemeanor court. Providing resources to help eliminate contact with the criminal justice system will be my priority.

## **Racial Disparities**

4. Will you commit to tracking and working to eliminate any racial disparities caused by decisions made by the Office, including disparities in charging decisions, bail recommendations, diversionary program placements, and plea bargains? Further, will you commit to making the results of your tracking easily accessible to the public? Please give a clear “Yes” or “No” and any explanation.

Yes. I believe there is a need to track this type of information so you are able to be fully informed on how your office is handling racial issues. If there is a pattern of conduct which unfairly affects a group of defendants based upon their race, it will be easily tracked and remedied. I believe the office needs to be much more transparent in its everyday workings and this type of information should be available to the public.

5. Will you commit to requiring that prosecutors participate in implicit bias training to reduce the possibility that subconscious and unintentional attitudes about other people based on characteristics such as race influence the prosecution of cases in your district?

Yes, and I will participate in this training as well. The only way you can fix these issues is to address them head on, regardless of how uncomfortable it may be.

## **Poverty Penalties and Bail Reform**

6. Do you favor changes at the state level to greatly reduce or eliminate the use of monetary payment as a condition of pretrial release? Please give a clear “Yes” or “No” and any explanation.

Yes, the current system only serves to keep poor people in jail.

7. Will you limit requests for money bail and pledge to recommend, for all legally permissible cases, presumptive release of defendants without financial conditions unless there is an individualized showing of substantial and identifiable flight risk or danger to the community and that money bail is necessary to address this danger or flight risk? Please give a clear "Yes" or "No" and any explanation.

Yes. The purpose of a bond is to ensure an individual's appearance in court and to keep the community safe. If those conditions are met, the crime is not violent in nature, and the legal outcome is likely a probation recommendation there shouldn't be a request for money bail.

8. Will you commit to avoiding, imposing costs of diversionary program participation on individuals and basing charges, if absolutely necessary, on a "sliding scale" fee structure that considers an individual's ability to pay? Please give a clear "Yes" or "No" and any explanation.

Yes. If there is a way to shift the costs of diversionary programs away from the participants I will absolutely do that. If there isn't, I am not opposed to instituting a "sliding scale" fee structure to ensure diversionary programs are not cost-prohibitive to lower income defendants.

### **Transparency and Accountability**

9. Will you pledge to collect and post online quarterly statistical information disaggregated by race and gender on felony and misdemeanor charging decisions, convictions, declinations, and diversion program placements? Please give a clear "Yes" or "No" and any explanation.

Yes, again I believe transparency in the office is greatly needed to regain the trust of the community.

10. Will you pledge to publish on the Office website all policies, protocols, and MOUs regarding prosecution guidelines, police-involved incidents, bail recommendations, fines and fees, diversion programs, plea bargains, civil asset forfeiture, immigration

considerations, and indigency determinations? Please give a clear “Yes” or “No” and any explanation.

Yes, I believe it is important the office and public understand what the expectations are for the office and its employees.

11. Will you pledge to develop and implement a plan to personally, regularly and meaningfully engage and communicate with the community in the county or counties you represent, including communities of color, the immigrant community, community-based organizations, and criminal justice reform advocates, and involve them in the project of determining the priorities of your office within the first 100 days of your term? Please give a clear “Yes” or “No” and any explanation.

Absolutely. During my campaign I have visited communities of color, immigrant communities, community-based organizations and criminal justice reform advocates. I have done this because I believe it is of the utmost importance to have these diverse members of Tulsa County come to the table and help me make our community safer, healthier, and more inclusive. I plan to continue this practice once I am elected.

12. Will you pledge to create a Conviction Integrity Unit and, as part of that process, compare current operations against the guidelines published by the [Innocence Project in October 2015](#)? Please give a clear “Yes” or “No” and any explanation.

Absolutely. As a private attorney I have had more than a few encounters with prosecutors that have called into question their integrity and I believe it’s important to audit the current system to ensure everyone is receiving a fair trial and plea offerings.

13. Will you ensure, that every stage of the criminal process your office oversees is communicated to victims in terms they understand and take time to explain the process without legal jargon? Please give a clear “Yes” or “No” and any explanation.

Yes. The victims should be a prosecutor's priority and they need to take the time to explain the process in a manner the victim can understand. Too often the victims are forgotten or treated poorly and that must stop.

14. Will you pledge to assign special prosecutors authorized to investigate and prosecute police killings of civilians, use-of-force cases, sexual assault by law enforcement officers and other cases of police misconduct as appropriate? Please give a clear "Yes" or "No" and any explanation.

I believe it's a conflict of interest for police to investigate members of their own department and prosecutors in the county to decide whether to prosecute or not. I believe this should be handled through independent bodies. However, that is not the current practice. I believe any allegation of police misconduct such as killing, use of force, sexual assault and other police misconduct needs to be handled by the District Attorney, the First Assistant, and another high-ranking prosecutor.

15. Will you pledge to recruit and hire people with criminal records to work in your District Attorney's Office? Please give a clear "Yes" or "No" and any explanation.

No. I don't believe a criminal record should exclude people from employment nor do I believe it should be a factor in determining an individual's employment. I pledge to recruit and hire people with real life experiences, who are honest, and have integrity. A criminal background will be secondary to these characteristics but I will pledge I won't exclude an individual based solely on their criminal history.

## **Immigration**

16. Will you pledge to adopt a written policy and training which encourages prosecutors to consider the unintended immigration-related consequences of prosecutorial decisions at all stages of a case and to use their discretion to reach immigration-safe dispositions for noncitizens whenever it is possible and appropriate? Please give a clear "Yes" or "No" and any explanation.

Currently, those who are here illegally are subject to 287G and have an ICE hold placed on them and there isn't anything the DA can do. However, for those who are here legally I believe it's important to educate prosecutors about immigration policy and the impact their charging decisions and plea offerings have on an immigrant's status.

17. To protect immigrant crime victims, will you pledge to adopt and promote a written U Visa policy 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? Please give a clear "Yes" or "No" and any explanation.

Yes. A lot of prosecutors are not aware of the U Visa certificates.

18. Will you pledge to adopt a written policy which prohibits questions about the immigration status of crime victim or witness?

Yes. I have publicly declared my intention of doing this.

## **Youth Justice**

19. Will you pledge to not seek the certification of juveniles as adults? Please give a clear "Yes" or "No" and any explanation.

No. Each case requires its own determination. There have been several atrocious acts committed by minors in recent years in Tulsa County. In those instances, I believe it was appropriate to certify the juvenile as an adult.

20. Will you pledge to require, when possible, that juvenile trauma histories be considered at all points in the process when evaluating whether a youth should be incarcerated,



diverted, or subject to other dispositions? Please give a clear "Yes" or "No" and any explanation.

Yes. I believe it is important to understand the trauma history so the recommendation is based in knowledge and we can tailor that juvenile's services to their specific needs.

21. Will you pledge to never seek a life without parole sentence for a juvenile? Please give a clear "Yes" or "No" and any explanation.

Yes. I do not believe this is an appropriate sentence for a juvenile.

## **Discovery**

22. Will you pledge to require that prosecutors turn over full discovery to the defense pre-indictment? Please give a clear "Yes" or "No" and any explanation.

Pre-indictment usually refers to grand jury indictments. I am not a fan of grand jury investigations given how biased and misleading the proceedings are. But, I do not have a problem providing discovery before a formal charge. The office's usual course of charging is by an information and I don't believe this is possible as the prosecutor doesn't have the full discovery at the time they file charges. I do believe whatever discovery is available to the prosecutor should be made available to the defense, including audio and video recordings, for preliminary hearings.

23. Will you implement and require Brady training for your prosecutors which specifically addresses evidence considered exculpatory or that otherwise qualifies as Brady materials? Please give a clear "Yes" or "No" and any explanation.

Yes. Brady material training was not offered in the District Attorney's office when I was a prosecutor and it plays a large role in prosecution.

## Other Issues

24. Will you adopt a policy requiring a criminal conviction before forfeiting property?  
Please give a clear "Yes" or "No" and any explanation.

Yes, if there isn't enough evidence to support a conviction then there isn't enough evidence to support a forfeiture proceeding.

25. Will you vehemently oppose any attempt to criminalize either a doctor performing or a patient seeking an abortion? Please give a clear "Yes" or "No" and any explanation.

Yes. The United States Supreme Court has ruled abortion is legal and any attempt to criminalize this legal behavior is unconstitutional.

27. Will you commit to not seeking the death penalty? Please give a clear "Yes" or "No" and any explanation.

No. The death penalty is legal in Oklahoma. I will pledge that any consideration of the death penalty will be reserved for the most heinous crimes, there is no doubt regarding the guilt of the defendant, and the case overwhelmingly meets the requirements to file a bill.

28. Do you support alternatives to incarceration. Please give a clear "Yes" or "No" answer. If yes, please explain what kind of alternatives you would provide from your position as district attorney (examples include restorative justice, community service, drug court, mental health court, work release, personal recognizance bonds, etc.).

Yes, I support alternatives to incarceration. I believe there should be work release and personal recognizance bonds in lieu of incarceration pending outcomes on non-violent crimes. I believe we need to allow more defendants into drug court and expand our mental health services. I believe in creating a community service docket in lieu of fines for low income defendants. I would like to create a specialty docket in misdemeanor court to address issues such as addiction, mental health, homelessness, and unemployment. Finally, I would transform DA supervision from a money making machine to operate more like wrap around services to ensure probationer's needs are being addressed to keep them from re-entering the system.

## Oklahoma Criminal Justice Reform

29. Will you pledge to work toward the reforms recommended by Governor Fallin's Oklahoma Justice Reform Task Force in 2016. Please give a clear "Yes" or "No," and, if no, explain why.

Yes.

30. Will you commit to reviewing the cases of currently incarcerated people whose sentence would be a misdemeanor under SQ 780, and expediting release. Please give a clear "Yes" or "No" and explain why.

Yes. Our prisons are full of non-violent offenders and drug possession is now a misdemeanor and I don't believe there is a public safety purpose keeping them incarcerated.

31. Will you be a champion for reforms like state question 780 that work to reduce the number of Oklahomans behind bars, and also work to fund treatment and alternatives to incarceration? Please give a clear "Yes" or "No" and explain why.

Yes. I have supported 780 and I will work with community partners to develop and fund treatment programs to address the addiction issues in our community and to reduce the number of incarcerated Oklahomans.

32. Will you commit to meet with organizations championing criminal justice reform around in-office and legislative changes that could be made to reduce the number of Oklahomans in prisons and jails? Please give a clear "Yes" or "No."

Absolutely. My entire goal as the DA is to bring criminal justice reform to Tulsa County and to Oklahoma.

33. Will you pledge to use your position on the District Attorneys Council to ensure that communications, decisions, and deliberations about policies, protocols, etc., be made public in an easily accessible and searchable format?

Yes. There needs to be transparency in the decisions the DAC makes. They are directing criminal justice and the public deserves to know the reasoning behind the decisions the body is making.

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