

CONTRA COSTA INTERIM DISTRICT ATTORNEY COMMUNITY QUESTIONNAIRE

Contra Costa voters have sent a clear and consistent message: we want meaningful criminal justice reform. In 2012, 72 percent voted in favor of Proposition 36, which reformed California's Three Strikes Law; in 2014, 66 percent of voters supported Proposition 47, which substantially reduced the penalties for several crimes; in 2016, 69 percent voted in favor of Proposition 57, which significantly expanded early parole opportunities for people serving time in California prisons; and also in 2016, 61 percent voted in favor of Proposition 64, which legalized marijuana and retroactively invalidated several types of prior marijuana-related criminal convictions.

It is time for Contra Costa's elected leaders to heed the public's calls for change. Following is a list of questions for applicants who wish to be considered for the Contra Costa Interim District Attorney appointment. Our coalition includes the following organizations: ACLU of Northern California, Alliance of Californians for Community Empowerment (ACCE) Action, California Donor Table Fund, Contra Costa AFL-CIO Central Labor Council, Democratic Party of Contra Costa County and Smart Justice California.

Applicants who respond to this questionnaire by **6:00PM on Thursday, August 10**, are invited to participate in a Candidate Forum on Saturday, August 12, from 1:00PM to 3:00PM at the Church of the Nazarene (1650 Ashbury Dr, Concord, CA 94520).

All responses to this questionnaire will be shared with the public prior to the August 12 community forum. If you have questions, please contact Irene Hsu at irene@smartjusticeca.org or (650) 799-9821.

Public Disclosure

QUESTION: Do you have a personal or professional relationship with any member of the Contra Costa County Board of Supervisors, including shared political consultants and/or fundraisers? If so, please explain.

QUESTION: Have you ever endorsed or provided monetary support to any member of the Board of Supervisors? If so, please explain.

QUESTION: Have you met with any member of the Board of Supervisors since former District Attorney Mark Peterson resigned? If so, please describe these meetings, including dates and topics discussed.

Fight Fraud and Corruption

Recent scandals at the Contra Costa District Attorney's Office range from prosecutorial misconduct, withholding of evidence, sexual assault allegations and fist fights between prosecutors to the embezzlement of campaign funds by the top law enforcement officer in the County, which resulted in a felony conviction and his resignation. Fraud and public corruption are forms of theft that

exploit the less powerful in our society and undermine public trust in government. Our entire community suffers when deceit and corruption become commonplace in the very institution we entrust with ensuring public safety and high ethical standards.

QUESTION: How will you change the culture of the District Attorney's Office to bring a new era of transparency and integrity?

QUESTION: What is an example of an action that you have taken in your current or former job that demonstrates how you would reform practices in the Contra Costa District Attorney's office?

End Mass Incarceration

In a March 2017 survey, 75 percent of Contra Costa County voters agreed that investing in schools, healthcare, housing and economic opportunity would be the best way to make their community safer. Three-quarters believe that investment in their community offers a more effective crime prevention strategy than investment in law enforcement. They also believe a preventative approach to crime is more likely to produce safety than one that emphasizes law enforcement; and they are especially supportive of investing in youth programs, mental health care and employment opportunities for vulnerable populations. The support for reinvestment policies cuts across many major demographic groups including, all counties, gender, age, party, income-level and ethnicity.

QUESTION: Describe specific approaches and programs you've adopted or worked with that have reduced crime without increasing incarceration?

QUESTION: What policies would you implement as the Interim District Attorney to reduce the number of people incarcerated in our county's jail and the number of people sent to state prison from Contra Costa County?

Reduce Racial Disparities

On September 14, 2015, the Contra Costa County Administrator's Office presented a "Summary of Race Data in Criminal Justice Systems in Contra Costa County" at a meeting of the Public Protection Committee. The data shows dramatic racial disparities for people of color at every stage of the criminal justice process.

While African Americans make up less than 10% of the population in Contra Costa County...

- African Americans are charged with crimes in 26% of all criminal cases
- African American adults make up 30% of probationers
- African American children make up 41% of juvenile probationers
- African Americans make up 7.5% of county jurors

These disparities are inconsistent with the ideals of our county, and responsible measures can be taken to reduce the disparities that exist.

QUESTION: How would you reduce racial disparities in the criminal justice system?

Racial profiling, as practiced in Contra Costa County, is unconstitutional and ineffective. It angers its targets and endangers both the police and our residents. Whether explicit or implicit, racial bias impedes justice and disproportionately impacts minority communities. The District Attorney's Office must lead the effort to eradicate racial bias from law enforcement.

QUESTION: Will you help to end both explicit and implicit racial bias in policing by refusing to file charges that result from racial profiling? (Yes/No)

Please elaborate on your position.

End the Death Penalty in Contra Costa County

California's death penalty system, which has the largest death row population in the Western Hemisphere, is expensive, racially biased, inhumane, ineffective, and broken beyond repair. Since 1977, California taxpayers have spent \$5 billion to put 13 people to death -- a cost of \$384 million per execution. Death penalty murder trials often cost 10 to 20 times more than murder trials that don't involve the death penalty. According to California's Legislative Analyst, replacing the failed death penalty system with life in prison without possibility of parole will save taxpayers \$150 million a year, which is money that can be better prioritized to provide a bigger public safety value. This may help to explain why Contra Costa voters have twice voted to repeal the death penalty in 2012 and 2016.

This is also an issue of racial justice: California's death row population is roughly 36 percent African American (nearly 6 times the proportion of all African Americans in the state) and non-white minorities make up nearly 67 percent of California's death row. Since 1973, 159 people sentenced to death in the United States have been exonerated. Declining to pursue the death penalty ensures that Contra Costa County would *never* execute an innocent person. The National Registry of Exonerations has found that "innocent black people are about seven times more likely to be convicted of murder than innocent white people," and thus also account for a disproportionate share of the growing number of exonerations. African Americans who were convicted and then exonerated of murder charges also spent four years longer on death row than wrongfully convicted whites.

QUESTION: As the Interim District Attorney, will you exercise discretion to not seek the death penalty? (Yes/No)

Please elaborate on your position.

Stand Up to Police Misconduct

While most police officers respect the rights of the public and strive to serve the community, abuses of police authority are a major problem. Cases of police brutality, police corruption and police sex scandals have become all too common in Contra Costa County. Such abuses disproportionately impact African American and Latinx communities. In order to restore trust, the District Attorney's Office must act to ensure that all law enforcement agencies in Contra Costa County are held to the

highest standards of transparency, professionalism and accountability, for example, by ensuring that secret grand jury proceedings are not used to insulate police from legal accountability, by rejecting cases that rely on abusive or discriminatory actions by the police and by making the case for good community policing. In the past, the US Department of Justice has provided oversight of abusive law enforcement agencies via consent decrees and cooperative efforts with police. The Trump Administration has signaled its intent to abandon those federal oversight efforts.

QUESTION: Will you work to weed out police misconduct? (Yes/No)

Please elaborate on your position.

QUESTION: Under what circumstances will you prosecute police misconduct?

Promote Diversity Within the District Attorney's Office

Workplace diversity is often critical to help change the culture of an organization. Research indicates that diversity can also help to spur innovation, reduce groupthink and improve overall performance. With more diversity among supervisors and line prosecutors, offices are also less likely to tolerate overt and subtle forms of racism or sexism. According to recent data, expanding the number of minority prosecutors can also help to reduce disparities based on the race of the defendant.

While 38 percent of California's population is white and 39 percent is Latino, roughly 70 percent of California's local prosecutors are white and 9 percent are Latino. In Contra Costa County, 48 percent of the population is white and 24 percent Latino, yet 78 percent of full-time prosecutors in the DA's office are white and only 4 percent are Latino. To promote diversity within the office, the District Attorney can perform community outreach among minority communities and encourage young lawyers to apply for prosecutor jobs. It is also important to prioritize inclusive hiring and promotion, collect employee demographic data and make that information available to the public. Police departments have been tracking diversity statistics on their officers and making this data publicly available for decades.

QUESTION: Will you prioritize inclusive hiring and promotions practices within the Office of the District Attorney? (Yes/No)

Please elaborate on your position.

QUESTION: Will you work to expand training on implicit bias within the office? (Yes/No)

Please elaborate on your position.

QUESTION: Will you collect demographic data on prosecutors and make that information publicly available? (Yes/No)

Please elaborate on your position.

Protect Immigrants While Protecting Everyone

Contra Costa County is a more socially and economically vibrant place because of our immigrant population. Today, however, immigrants and their families--including many of us and our families, friends and neighbors--face extreme anxiety about being torn from their families and deported. Moreover, with the anti-immigrant policies and rhetoric of the Trump Administration, trust between immigrant families and law enforcement has been severely compromised, resulting in severe drop-offs in the reporting of violent crimes by immigrant communities. When any groups in our community do not feel safe enough to report crimes to police because of mistrust, it is incumbent upon the District Attorney as the top law enforcement official in the county to address the problem directly and rebuild trust in order to keep our communities safe.

The Contra Costa District Attorney has an opportunity to help repair trust between immigrants and police by working to protect the Fourth Amendment rights of *all* residents and focusing our county law enforcement efforts on making our community safer instead of tearing families apart. The District Attorney can also encourage police to focus their limited resources on local community policing as opposed to spending our tax dollars to serve the Trump deportation machine. Furthermore, even relatively minor crimes can have disproportionately severe immigration consequences for non-citizens, with even minor offenses such as simple drug possession resulting in deportation for long time lawful permanent residents. Rather than make our communities safer, these disproportionate consequences tear families apart and further strain relations between immigrant communities and law enforcement. The District Attorney's focus should be on due process and the fair application of justice *regardless* of immigration status.

QUESTION: Will you take into account the disproportionate impact of adverse immigration consequences when making policy and negotiation decisions as required by both the letter and spirit of California law? (Yes/No)

Please elaborate on your position.

QUESTION: What other actions would you take to reduce the negative impact of prosecutions on immigrant communities?

Prosecute Those Who Exploit and Defraud Immigrants

Contra Costa is home to a large and diverse immigrant population. Our immigrant communities represent the beauty and rich diversity of our great county. Unfortunately, there are individuals who target and prey upon these communities and defraud and exploit innocent people. The District Attorney can aid and encourage both documented and undocumented immigrant victims and witnesses, who may fear cooperating with law enforcement because of their immigration status.

QUESTION: Will you prosecute individuals and businesses that illegally target and exploit immigrants by utilizing various fraudulent schemes or scams? (Yes/No)

Please elaborate on your position.

Protect the Environment

Contra Costa County boasts one of the most beautiful and diverse natural environments in the world. However, polluters threaten our communities by illegally dumping waste on our streets and by poisoning our air and polluting our water. Low-income citizens and communities of color suffer disproportionately from these environmental crimes.

QUESTION: Will you protect our environment and our children's health by prosecuting large-scale polluters and dumpers to the full extent of the law? (Yes/No)

Please elaborate on your position.

Protect Workers and Consumers

When employers violate safety or health regulations, they often endanger the lives and livelihoods of workers and consumers. Hampered by low penalties, administrative restrictions and lack of resources and expertise, the California Division of Occupational Safety and Health (Cal/OSHA) does not adequately address recalcitrant employers. Under Business & Professions Code Section 17200 et seq, the Contra Costa County District Attorney's Consumer Protection Unit should investigate and prosecute occupational safety and health cases where employers prioritize profits over the safety and health of workers, consumers and other victims of economic crimes. Civil prosecutions can also be based on a violation of the Labor Code, Title 8 of the California Administrative Code and other policies. By expanding the Consumer Protection Unit, we can also stop employers who discard workers injured on the job and who repeatedly fail to pay proper wages.

QUESTION: Will you direct, resource and expand the Consumer Protection Unit in Contra Costa County District Attorney's Office to address labor violations - whether related to occupational safety and health or violations of basic laws, regulations or policies related to wages, hours or conditions of employment? (Yes/No)

Please elaborate on your position.

Protect Our Youth

Early intervention for children in need is a national best practice to keep them from entering our criminal justice system. Unfortunately, children in Contra Costa County, especially black and brown children, spend a disproportionate amount of time in custody. The price of keeping a child in juvenile hall in Contra Costa County is \$393 a day or \$143,445 a year.

QUESTION: Will you commit to reducing the number of children charged in adult court and expanding the use of informal diversion and pre-filing diversion in juvenile cases? (Yes/No)

Please elaborate on your position.

QUESTION: Will you use the resources of the District Attorney's office to offer community-based services for children and families in need, and prioritize keeping at-risk children, youth and young adults out of the criminal justice system? (Yes/No)

Please elaborate on your position.

QUESTION: Recognizing that children and youth are categorically less culpable than adults, have less impulse control and that they possess profound capacity for transformation: Will you decline to seek life without the possibility of parole for any person under 18 at the time of offense? (Yes/No)

Please elaborate on your position.

Pursue Innovative Restorative Justice Programs

The Contra Costa County District Attorney's office has a responsibility to bring new and innovative approaches to healing our communities and promoting healthy resolutions for victims (as well as perpetrators of crime) by diverting resources from the failed mass incarceration strategies of the past toward "restorative justice" and "transformative justice" practices that more effectively address recidivism. Restorative Justice focuses on recognizing the injustice underlying criminal conduct, restoring the equities with direct input from those who are harmed and providing for a more safe and secure future. This focus on the people and relationships damaged rather than the laws that were broken addresses the root causes of criminal behavior.

QUESTION: Will you pursue innovative and evidence-based restorative justice programs that focus on healing our communities by ensuring that the people most affected by a crime are able to participate in its resolution? (Yes/No)

Please elaborate on your position.

Eradicate Money Bail

Approximately 68% of those incarcerated in Contra Costa County jail are awaiting trial and have not been convicted of any crime. It costs approximately \$120 per night to house someone in jail. Many of those incarcerated pretrial are there simply because they cannot afford to pay bail.

California's money bail system does not do a good job of protecting our communities. California's current money bail system lets individual wealth determine whether someone remains in jail. In far too many cases, low-income people who are likely to show up to court and can be safely released are left to languish in jail simply because they cannot afford to pay for their freedom, while wealthy individuals are able to write a check to bail out. The US is one of only two countries in the world that allow the for-profit bail industry to be part of the pretrial release process. (The other is the Philippines.)

QUESTION: Will you support the California Money Bail Reform Act of 2017 (SB 10), which would reform California's money bail system? (Yes/No)

Please elaborate on your position.

Contra Costa County has a small pilot Pretrial Services program (PTS), which allows for supervised release of some individuals pre-trial. PTS is a system that evaluates whether someone can safely be returned to the community and under what conditions. Currently, the Contra Costa District Attorney's Office objects to the release of those deemed "low risk" by the evidence-based risk assessment tool in the majority of cases.

QUESTION: Will you support the Contra Costa County PTS pilot program and work to expand it so that more individuals who are in custody pretrial can be screened by the PTS program for potential release under supervision? (Yes/No)

Please elaborate on your position.

Reduce Fees and Fines

QUESTION: Will you ensure that a defendant's ability to pay is considered in the assessment of fees for any sentence, criminal disposition or diversionary program? (Yes/No)

Please elaborate on your position.

Treat Drug Addiction as a Public Health Crisis

The solution to drug addiction is treatment not incarceration. It is important that our District Attorney treat substance use disorder as a public health crisis rather than as a problem that we can incarcerate our way out of. The District Attorney should increase opportunities for pre-booking diversion, such as the new Law Enforcement Assisted Diversion (LEAD) pilot program that is soon to launch in Contra Costa County as a partnership with Antioch Police Department. Diversion programs like LEAD prioritize community-based services, like drug treatment, housing and employment resources, over prosecution and incarceration. Our District Attorney should work to expand and promote more pre-booking diversion programs.

QUESTION: Will you expand and promote the new LEAD program as an alternative to prosecution and incarceration for those suffering from addiction? (Yes/No)

Please elaborate on your position.

QUESTION: Will you commit to not charging drug overdose cases as homicides? (Yes/No)

Please elaborate on your position.

Expand Access to Mental Health Treatment

Our local Contra Costa County jails are full of individuals suffering from mental health disorders. Our District Attorney should employ innovative strategies to create pre-booking diversion alternatives to reduce the number of mentally ill individuals who are entering our jails. For cases where prosecution is necessary to maintain public safety, the District Attorney should expand our county's Behavioral Health Court (BHC) treatment options to extend to those most in need of these intensive, holistic services. The District Attorney should also work closely with law enforcement to ensure that they have the proper training to interact with this population, and mandate Crisis Intervention Training (CIT) for all law enforcement officers in the county to teach them how to de-escalate situations with the mentally ill.

QUESTION: Will you divert those with mental health issues away from our jails and prisons and into community-based treatment? (Yes/No)

Please elaborate on your position.

Strengthen Reentry Programs

Once someone has paid the price for committing a crime and served their sentence, justice demands that we work with him or her to start a new chapter in their life and achieve success. The District Attorney should work to give second chances to those who have been separated from society due to incarceration, and by doing so, reduce recidivism. The District Attorney should also take an evidence-based and data-driven approach to reentry programming and support efforts to find appropriate housing, educational and employment opportunities for those who have been convicted and are now re-integrating into society. By supporting Clean Slate record clearance efforts, the District Attorney can also help those who are trying to remove the barrier of a prior conviction from their record so that they can obtain housing, employment and restore their dignity. Together, we can end the practice of saddling poor people with criminal justice debt, through fines and fees, associated with their cases.

QUESTION: Will you commit to devoting county funds, including AB 109 reentry funds, to programs that allow for additional housing, treatment or employment rather than more punitive approaches that fund law enforcement efforts to incarcerate? (Yes/No)

Please elaborate on your position.

QUESTION: Will you pledge to support second chances, even for those who commit serious offenses, by both limiting parole opposition to those cases in which there is a demonstrable and serious risk of future violence and committing to affirmatively advocate for parole on behalf of those who demonstrate outstanding growth and maturity during their incarceration? (Yes/No)

Please elaborate on your position.

Limit Asset Forfeiture

In 2016, there were 121 civil asset forfeiture cases initiated in Contra Costa County. The estimated value of the assets seized totaled \$1,105,556. Civil asset forfeiture enables law enforcement agencies to seize cash or possessions with no proof of criminal activity, let alone a conviction. In September of 2016, Governor Jerry Brown signed a new law that limits law enforcement's abuse of asset forfeiture.

QUESTION: Will you work to ensure that law enforcement complies with this new law and decline to seek asset forfeiture except in the most serious of cases? (Yes/No)

Please elaborate on your position.

Bring Police and Community Together

Ineffective, divisive police measures fail to make us safe. They also divide police and the neighborhoods they protect, increasing unnecessary conflict and making police work more dangerous. Victims of crime, their families, our communities and all suspects all deserve transparency and fairness in determining the truth.

QUESTION: Will you work in partnership with law enforcement to promote effective community policing policies? (Yes/No)

Please elaborate on your position.

Stop Prosecuting Insufficient and Insignificant Cases

The Contra Costa County District Attorney's Office routinely overcharges cases, accusing people of crimes more serious than those that can be proven in order to obtain an advantage in plea bargaining. In doing so, the DA's office acts as an arm of the police rather than a guardian of the public trust in its own right. Not only does this clog the courts and delay trials, but it contributes to our county's high incarceration rate. This over-prosecution results from a toxic culture that prizes prosecution over promoting justice and focuses on winning convictions at any cost, too often at the cost of justice itself.

QUESTION: Will you decline to prosecute cases forwarded by the police that lack support by sufficient and legally obtained evidence? (Yes/No)

Please elaborate on your position.

QUESTION: To reduce crime in our county, will you advocate for intelligent and proactive policing that interrupts serious crime at its source: the people who commit the vast majority of violent crimes? (Yes/No)

Please elaborate on your position.

QUESTION: Will you seek alternatives to incarceration for technical or minor violations of probation and parole? (Yes/No)

Please elaborate on your position.

QUESTION: Will you pledge to establish an office policy against increasing or threatening to increase the number or severity of charges in order to secure more favorable plea dispositions or waivers of rights? (Yes/No)

Please elaborate on your position.