

Please return a completed questionnaire by June 12th, to Justice Gatson, Organizer, ACLU Of Missouri. Jgatson@aclu-mo.org

PROSECUTING ATTORNEY CANDIDATE QUESTIONNAIRE

End the Use of Money Bail

The continued use of unjust cash bail policies contributes to the overall incarceration of poor people and people of color by keeping them incarcerated simply because they are too poor to pay bail. Locally elected prosecutors should adopt the following policies or engage in the following actions to reduce the use of cash bail.

1. What changes would you make to Jackson County's bail system, in light of the Safety and Justice Challenge? *Our bail system is in need of reform Last year my office assisted the Missouri Supreme Court in drafting rules moving away from a focus on money bail. The County must acquire more pretrial services as alternatives to incarceration. I have advocated for those services along with the Court.*
2. Will you support the complete abolition of money bail? Why or why not? *I unequivocally support ending cash bail in amounts that serve only to keep poor people incarcerated because they are too poor to pay bail. However, in a city with violence levels such as ours there are cases where victims of color and communities of color must be protected by keeping a violent individual in jail. Only in those instances would I support the use of money bail.*
3. In the absence of legislation overhauling Missouri's money bail system, will your office commit to taking a default position of release on recognizance for all defendants accused of misdemeanors and nonviolent felonies, unless there is a substantial risk to the community or high likelihood of flight? *Yes, that is our present position.*

Keep People Out of Jail for Drug-Related Offenses

Years of experience with ineffective drug laws and the latest medical research on addiction suggest that treating drug use as a public health issue, as opposed to a criminal justice issue, is a more effective approach to reducing harm.

1. Will you support diversion programs for all low-level drug offenses? *Yes, I already have created this policy within the office. Other low-level drug offenses are declined from prosecution.*
2. Will you decline to prosecute drug possession or distribution in small amounts? *Yes, I already have this policy within the office.*
3. In the absence of sufficient evidence of intent to cause death, will you commit to not charging drug overdose cases as homicides? *In rare cases where the evidence warrants a charge, a potential path is a voluntary or involuntary manslaughter charge when a prolific dealer intentionally or recklessly kills their customers.*
4. Will you publicly support the creation of safe injection sites in your county, to provide those suffering from drug addiction with access to clean supplies, naloxone, and medical or addiction treatment? *Yes.*

Adopt Policies to Avoid the Criminalization of Poverty

Local justice systems disproportionately harm people living in poverty. Whether through the imposition of fines and fees as a condition to resolving cases, or through laws that effectively

criminalize homelessness, local actors have imposed a poverty penalty on many within the community.

1. Will you implement a policy providing that an individual's inability to pay will not influence if an individual is offered a diversion program? *Yes, that policy was created in a diversion program I created called New Start. This program was created in 2015, but began as a pilot project in 2013.*
2. Will you adopt fee waiver programs for those diversionary programs that currently require fees? *Yes, New Start diversion is a fee waiver program.*
3. Will you oppose incarceration based upon the failure to pay fines or fees, unless there is uncontroverted proof that the individual is able but willfully refusing to pay? *Yes*
4. Will you establish a strong presumption against prosecuting sit-sleep-lie laws, public urination violations, loitering, prositution, solicitation, trespass and other conduct that is a byproduct of homelessness or poverty? *Yes, and the offenses listed above fall within a category of cases that are not filed by policy or sent to Diversion programs that do not require pre-plea for admission.*

Treat Kids Like Kids

Recognizing that children's brains continue developing until around the age of 25, and that research supports their enhanced capacity for rehabilitation, children should neither be prosecuted in adult court nor given punishments that preclude the opportunity for redemption.

1. Will you decline to ask for sentences that are de facto life-without-parole for any person under 18 at the time of the offense? *Yes, all cases in my office are evaluated on individual merits of public safety. My policy for those under the age of 18 years is to recommend a sentence that meets the ends of public safety but does not require a de facto life-without-parole sentence.*
2. How will you ensure that juveniles are not needlessly confined? What steps will your office take to make certain that the juvenile justice system operates in a rehabilitative, rather than punitive, manner? *The system in Jackson County does not include a presumption of commitment and seeks less confinement than any other jurisdiction in the state per population. That has been the system in Jackson County for over 8 years.*
3. Will you commit to never seeking detention for juveniles charged with misdemeanors or non-violent offenses? *Yes.*
4. For juveniles (under the age of 18) will you commit to never seeking transfer to adult court unless the charged offense is a capital felony? *Yes, with the exception of some sex crimes and particularly violent robberies when the Family Court has previously sought rehabilitation. Even in Jackson County these certifications are very rare. The majority of certifications are for murder charges and certification is not all cases of murder and dual jurisdiction has served as an alternative for some of these cases.*
5. The human brain does not reach maturity until approximately age 25. Will you commit to creating diversion programs for defendants between 17-24, who are legally adults but are not developmentally mature? *Yes.*
6. Will you decline to seek life-without-parole sentences for young people between the ages of 18 and 25? *That is the presumption where I begin my analysis for any individual in that age group and it is the policy of my office.*

7. Children are less able to make an informed decision when deciding to talk to the police. Will you vocally support a policy that prohibits the interview or interrogation of a child--either as a witness, suspect, complainant, or respondent--by law enforcement without the presence of a parent or guardian and prohibits waiving an attorney in closed court? Yes.

8. Will you establish a strong presumption against prosecuting school suspension or expulsion cases where there is no use or threat of force resulting in physical harm? Yes.

Do Not Seek the Death Penalty

The use of the death penalty has become increasingly isolated to a handful of jurisdictions within the United States. California's death penalty is routinely identified as one of the most dysfunctional, broken systems in the country. 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 culpability, including persons with intellectual disabilities and severe mental illness, youthful offenders under the age of 21, and those who have experienced extreme childhood trauma.

1. Each death prosecution cost taxpayers an average of \$2.3 million. Minorities are more likely to be selected for death prosecutions, and more likely to be sentenced to death. The death penalty is disproportionately used against black people. Will you commit to ending this racist and expensive practice, and commit to never seeking the death penalty? *Because the death penalty remains a legal option in Missouri, a prosecutor who declares that she will **never** evaluate a case for the death penalty opens the door for the Attorney General to remove that prosecutor from any Murder in the First Degree case. This does not advance the cause to reduce the use of the death penalty. The better pathway is to acknowledge that the death penalty remains a legal option, regardless of one's personal opposition to it, but to fully understand the death penalty's racial history, expense, and burden placed on victims when this option is chosen when evaluating appropriate cases.*

2. Knowing what you do about the racist and error-ridden history of the death penalty, will you support the commutation of current death row inmates out of Jackson County to life without parole? *The only death penalty case remaining in Jackson County is Ricky Davis. Mr. Davis is a Caucasian male and his victims were Caucasian.*

3. How will your office avoid wrongful convictions, and what steps will you take to ensure that no one in Jackson County is convicted of a crime they did not commit? How will you minimize the negative consequences for those that have been wrongfully convicted? *We achieve this duty by heavily vetting cases prior to filing. I created a Homicide Committee review process so that neither undue pressure, nor individual bias is a factor in a filing. Further, my office has established a Brady/Giglio process of disclosure that seeks the information wherever it is held, often within police departments. We attorneys have received training on the process and I have disciplined attorneys for not following the duties of Brady/Giglio. Further, we have established a Conviction Review Unit for the purposes of vetting old cases, but pending cases in the office allowing for a blind review of issues as they arise. This allows for more confidence in our present handling of cases rather than placing all the emphasis on correcting old convictions.*

4. Will you commit to creating and properly resourcing a conviction integrity unit in Jackson County? Yes, *I have created that unit.*

5. Where DNA or other evidence that may lead to exoneration is in your possession, will you commit to always making that evidence available for independent testing should the defense ask to test? *Yes, to a reputable lab for maintenance of evidence.*
6. In cases involving false confessions or witness recantations, will you commit to agreeing to allowing a judge to hear and assess the value of that evidence, even after conviction? *Yes, in cases evaluated through the Conviction Integrity Unit.*

Promote Proportionate Sentencing and Provide Pathways to Second Chances

People are more than their worst acts, and even people who commit the most serious offenses often change their lives profoundly over time. To recognize the worth and potential for growth in all people, it is important for locally elected prosecutors to provide individualized consideration to the character and background of each person and to the circumstances surrounding the commission of the offense. It also is critical for elected prosecutors to promote opportunities for release, through parole or clemency, and to help remove barriers to reentering society for those who are released from incarceration.

1. Prosecuting attorneys across the country have routinely adopted policies of charging the most serious readily provable offenses, to make it easier to charge bargain when seeking a guilty plea. Will you adopt a policy to charge the least severe acceptable charge, so that the charge more accurately reflects the alleged conduct and does not create artificial incentives for a defendant to plead guilty? *Yes*
2. Will you use pretrial intervention/diversion strategies in a significantly higher proportion of cases involving nonviolent, low-level, offenders? If yes, which offenses would you make eligible for diversion? Will you make diversion available to all defendants willing to participate, irrespective of their criminal histories? *Yes, I already have these policies in place.*
3. Will you commit to never seeking a jail sentence for misdemeanors? Non-violent offenses? Drug possession? Prostitution? *In my office, misdemeanors are infrequently filed. It is a rare circumstance where jail time is requested for those misdemeanor filings regarding a sexual offense. Jail time is not requested on other type of misdemeanor offenses.*
4. Will you commit to reducing the percentage of cases by 50% where a maximum sentence is sought by prosecutors? *My office rarely seeks maximum sentences. We do so only on a case-by-base basis where public safety is a serious and documented risk.*
5. 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*
6. Will you publicly oppose any proposed legislation that would create new mandatory minimum sentences or lengthen existing minimum sentences? *Yes*
7. Will you publicly support the repeal of gang and other sentencing enhancements? *Yes to gang enhancements, but the law may require enhancements in other categories, like multiple violations of protection orders or sexual offenses.*
8. Will you pledge to support second chances by both limiting parole opposition and committing to affirmatively advocate for parole on behalf of those who demonstrate growth and maturity during their incarceration? *Yes*
9. Will you use pre-plea diversion programs and create explicit benchmarks to reduce the

number of people incarcerated pre-plea and pretrial? *Yes, every program in Jackson County is currently a pre-plea diversion.*

Promote Policies that Aid Undocumented Communities

In the last year, undocumented communities have come under increasing attack because of increasingly vicious federal immigration laws. These policies not only allow for deportation because of minor allegations like possession of drugs, but they also make communities less safe, as undocumented victims fear going to court or speaking to law enforcement.

1. Many individuals end up in immigration detention based on arrests for quality of life offenses, which are never charged and are often eligible for ticketing (as Class C offenses). Will you commit to directing law enforcement to ticket, instead of arrest, for class c misdemeanors including marijuana possession, disorderly conduct, public intoxication, “hot” checks less than \$20, simple assault, and criminal trespassing? *Yes, currently this is our process for lower level offenses listed or they are not filed by my office.*

2. Even expunged and sealed convictions can carry immigration consequences under federal law. Will you allow pretrial diversion without an admission of guilt, so as to avoid deportation based on diverted offenses? *Yes, this is a process that is allowed for appropriate cases to avoid deportation. Further, I have conducted comprehensive all-office trainings each of the last two years regarding the legal consequences of criminal process for undocumented persons.*

3. If permitted under state law, will you direct law enforcement officers to not inquire about immigration status? *Yes*

4. Will you refuse to cooperate and liaise with ICE? *As prosecutor I take an oath to uphold justice and protect public safety. This includes not discriminating based on immigration status. When public safety demands it, it might also include working with law enforcement agencies who do not share the same values.*

5. Do you commit to vacating convictions that are making immigrants deportable, or preventing immigrants from seeking asylum or some sort of immigration relief? *Yes, my office has engaged in providing relief from deportation when it is in the interest of justice and when deportation serves no legitimate purpose for public safety.*

Policies that Promote Transparency and Accountability to the Community

Enhancing transparency and accountability within the district attorney’s office is critical to ending the win-at-any-cost pursuit of high conviction rates that is failing our communities. Our elected prosecutors must build a culture focused on seeking justice for victims, and ensuring that justice is equal. This requires being open to community scrutiny and feedback, paying close attention to racial disparities, and prioritizing the needs of victims and their families.

1. Will you maintain and publish regular statistics about prosecution, including the number of misdemeanor and felony cases filed each month, disposition statistics, pretrial incarceration rates and length of stay by offense category, and average bond for each class of offense, to measure the effectiveness of policies aimed at efficacy and reform? *Yes, some bond related information is currently obtained from the Court.*

2. Will you include racial information at all steps, committing to publicly report any significant racial disparities at any stage of the process? *Yes*

3. Will you help to end both explicit and implicit racial bias in policing by refusing to file charges that result from racial profiling? *Yes*
4. Will you build a staff that reflects the diversity of the community the office serves? *Yes, I continue to recruit, but also seek to retain talent for my office.*
5. Will you commit to regular communication with community members and organizations, including regularly scheduled open sessions? *Yes*
6. Will you prioritize the needs of the victims of violence by expanding support of victim/witness service programs and improving communication with victims and family members? *Yes, I have created and funded programs that address the trauma of victims and I have created partnerships through mental health and community service agencies to proactively offer fresh food, in-home counseling services, home repairs caused by crime and other services to make victims safer and restored.*
7. Will you make office policies--like criteria for pretrial diversion and policies governing sentencing recommendations--public? *Yes.*
8. Will you gather, maintain, and make public data about prosecutions, diversions, plea offers, and sentencing? *Yes.*
9. Will you commit to the creation of an independent unit, or to bring on an independent prosecutor, in all cases involving police misconduct? *I recognize the need for this type of review and am seriously considering how this could happen logistically. I do not currently have funding to create a new unit, nor do I have another entity where I can send those cases outside of the Attorney General's office. However, in the wake of the murder of George Floyd I have received new information from a variety of sources helping make police misconduct review more fair.*
10. Will you commit to a full investigation including presentation before a grand jury of all cases involving police-involved shootings, corruption, fraud or any violence resulting in death or bodily injury? *Yes, acknowledging that State law governs the confidentiality of the Grand Jury process. The most transparent process possible must be sought in these cases.*
11. Access to information promotes fairness, congeniality, and the early resolution (either through pleas or dismissals) of criminal cases. Will you create an open-file discovery system, to provide information to defense counsel as you receive it? *Yes, that is our process.*
12. Prosecutors have an obligation under the Brady doctrine to provide exculpatory information to defense counsel.
 - a. What do you think the Brady doctrine requires of prosecutors? *Prosecutors must turn over any information that might be considered exculpatory, even if the prosecutor views it as irrelevant.*
 - b. What specific changes would you implement (to the discovery process, to supervision within your agency, to communication channels with law enforcement) to ensure that Brady information is disclosed in a timely fashion? *I have implemented an "open file" policy in my office to ensure that all information is given to defense counsel. I have also implemented timelines on our discovery policies that go far beyond what the law requires of prosecutors. I have trained all members of the office for full compliance in this process.*
 - c. What specific training would you implement to ensure that your employees understood how and in fact do comply with their Brady obligations. What topic

areas would that training cover? *I already have extensive trainings on Brady obligations and it is my policy that everything – regardless of how irrelevant the prosecutor deems it – be turned over to defense counsel.*

Policies that Guard the Community Against Abuse of Power by Officials

Fraud and public corruption undermine public trust in government. There's also the inevitability of mistakes that, in the case of public prosecutions, are as inevitable as their impacts are life-altering. It is crucial that elected prosecutors serve as one of the first lines of defense to protect the less powerful in our society from exploitation, especially when it comes to abuse of power by those in government who are supposed to act in the public interest.

1. Will you commit to using asset forfeiture only after a conviction has been obtained, and ensure that there is a meaningful opportunity for members of the community to contest the seizure? *My office does not receive asset forfeiture funds internally as a reform measure, and in cases where a state forfeiture is sought, notice and hearings are offered to contest the forfeiture of those funds to the state of Missouri.*
2. What is your position on the Prosecuting Attorney's role, if any, in ensuring that indigent defendants in St. Louis County receive competent and diligent representation? *I support a fully funded defense system and I have made public comments to support their funding and I will continue to do so.*
3. Will you support statewide legislation to end the use of civil asset forfeiture? *Yes.*
4. Will you advocate for a fully funded Public Defender's office? *Yes.*
5. Will you work with the community and law enforcement to charge and convict those who criminally defraud the public or abuse public office for personal gain? *Yes.*

Local Control Of The Kansas City Police Department

As you are aware, Kansas City is the only city in the country that does not have local control of its police department. The lack of local control prevents real accountability from the police department to the people who pay their salaries. The Board of Police Commissioners are political appointments by Gov. Parson. This puts state politics in the heart of our policing. Local control can fix these issues.

1. Do you support the community's push for local control of the KCPD? Why? or Why not? *Yes, because the police department must fully understand that it works for Kansas Citians, and not the other way around. According to data compiled by the Urban League and More2, 13 out of the last 20 police commissioners have been white males who reside in the Brookside area of Kansas City. The parts and people of Kansas City who are the most heavily policed, especially communities of color, have been nearly or entirely absent from governance of their police department. This is deeply unjust and must be remedied.*
2. Will you commit to working with other government bodies and community groups to support local control efforts in Kansas City? *Yes.*