

Cumberland County District Attorney Candidate Forum

First Parish Church - Portland, Maine May 7, 2018

Questionnaire Instructions

To participate in the May 7th Forum, return your completed questionnaire no later than April 28, 2018 as an attachment in this MS Word 97/200/XP format or Rich Text format to attorney@angusferguson.com. All the completed questionnaires will be distributed online and to the media. Please mark either "Yes" or "No" in response to each "binary" question. Please respond in no more than 200 words to the followup "essay" questions. Incomplete responses will be noted as such. Late submissions may not be published.

Prepared by Candidate: Frayla Tarpinian
(name)

Submitted April 28, 2018
(date)

Mission and Vision

1. Will you pledge to articulate a mission and vision for the Cumberland County District Attorney Office that places the focus on justice, rather than winning cases, and aligns the work of the Office - including internal and external communications, training, policies, and hiring and promotion practices - to reflect that mission and vision?

YES X or NO _____

If "YES" please explain specifically how you will implement this policy. If "NO" please explain your policies and plans for this issue. [Use this space to respond in 100-200 words or less]

The only job that the District Attorney has is to do justice, that is the purpose of the office. I would implement a plan that supports doing justice by first creating procedures and policies which create a blueprint for staff to follow, then training staff on those policies and procedures, and monitor to ensure that the policies are followed.

Mass Incarceration

2. Do you agree that prosecutors' practices have contributed significantly to mass incarceration?

YES X or NO _____

3. Many experts say that overcharging by prosecutors unfairly pressures defendants into pleas, even with weak or insufficient evidence. Would you pledge to file only those charges that you are confident the evidence supports?

YES X or NO _____

If "YES" please explain specifically how you will implement this policy. If "NO" please explain your policies and plans for this issue. [Use this space to respond in 100-200 words or less]

I would ensure only charges that are supported by the evidence are filed by mandating that charges are supported by facts that a prosecutor has a good faith basis to believe can prove the case beyond a reasonable doubt.

4. Criminal justice contacts – however brief – can have negative psychological and employment effect, and often fail to address the underlying causes of crime (e.g. addiction, mental illness, poverty). Will you work to expand diversionary programs so that, whenever possible, adverse impact of the criminal justice system is avoided or limited?

YES X or NO

If “YES” please explain specifically how you will implement this policy. If “NO” please explain your policies and plans for this issue. [Use this space to respond in 100-200 words or less]

I strongly believe in encouraging law enforcement to implement pre-arrest diversion programs that prevent people from entering the system. I would work to expand access to the drug court, to bring a Veteran's Court to Cumberland County, and create prosecutor-based diversion programs whenever possible. Limiting individuals' criminal justice contact is key to help people avoid cycling in and out of the system and focuses resources appropriately to address people who are high-risk and pose community safety concerns.

5. A non-partisan official audit estimated that Maine spent almost \$160,000 per juvenile inmate and over \$42,000 per adult inmate for an average annual cost to taxpayers in 2012 about \$53,000 per inmate per year of incarceration. Will you institute a policy that Assistant District Attorneys must enter and justify the cost of incarceration on the record in plea and sentencing proceedings?

YES or NO X

Please describe here what policies your office will institute to address the problems of the growing cost to taxpayers of increasing populations in Maine correctional facilities and damage to the employment and families from jail and prison time in light of the lack of real rehabilitation services and the high rates of recidivism following release from Maine correctional facilities. [Use this space to respond in 100-200 words or less]

As District Attorney I would seek to increase diversion programs, use treatment models, and seek to reserve incarceration for the most serious offenses. Resources allocated to incarceration, in many instances, would be better used in furtherance of rehabilitation, supporting incarcerated persons transitioning into the community and strengthening community resources that would more effectively address some of the main drivers of criminal activity. I believe the cost of incarceration should be a factor at sentencing, but not the only factor. The cost to tax payers fails to account for the cost to the community and family unit when a person is removed from society and placed into custody. For those reasons, I would not mandate this information be provided in every plea and sentencing proceeding, but I would expect it to be provided in certain cases.

Racial Disparities

6a. 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?

YES X or NO

6b. Will you require 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 Cumberland County?

YES X or NO

If "YES" please explain specifically how you will implement this policy. If "NO" please explain your policies and plans for this issue. [Use this space to respond in 100-200 words or less]

By making the training a mandatory part of the required trainings for the office. I have participated in multiple trainings on implicit bias and believe that regularly training on biases would enhance the staff's understanding of how factors that are not apparent have dramatic impacts on decision making.

Poverty Penalties and Bail Reform

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?

YES X or NO

If "YES" please explain specifically how you will implement this policy. If "NO" please explain your policies and plans for this issue. [Use this space to respond in 100-200 words or less]

By creating a mandatory policy for the office that would require prosecutors to limit their request for cash bail to cases that meet this criteria.

Transparency and Accountability

8. Will you pledge to collect and post online quarterly statistical information broken down by race and gender on felony and misdemeanor charging decisions, convictions, no complaints, and diversion program placements?

YES or NO X

If "YES" please explain specifically how you will implement this policy. If "NO" please explain your policies and plans for this issue. [Use this space to respond in 100-200 words or less]

I cannot make this pledge because there is no system in place currently to collect and analyze this information. I agree that the information is important and necessary and so I pledge to seek resources to hire the needed staff to create such a program, so that I can make this information publicly available.

9. Will you pledge to publish on the Office website all policies, protocols or memos regarding prosecution policies, for example, police-involved incidents, bail recommendations, fines and fees, discovery requests, diversion programs, plea bargains, civil asset forfeiture, immigration considerations, restitution, indigency determinations and so forth?

YES _____ or NO X

If "YES" please explain specifically how you will implement this policy. If "NO" please explain your policies and plans for this issue. [Use this space to respond in 100-200 words or less]

I do pledge to publish case related policies and procedures so that everyone has a level playing field and a better understanding of how the office works. I do believe that some information concerning personnel, work product, and information that is made confidential by law should not be made public.

10. Will you pledge to develop and implement a plan to personally, regularly and meaningfully engage and communicate with the Cumberland County community, including people 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, starting within 100 days of taking office?

YES X or NO _____

If "YES" please explain specifically how you will implement this policy. If "NO" please explain your policies and plans for this issue. [Use this space to respond in 100-200 words or less]

I believe open communication with all members of the community is important and I will have an open-door policy so that I can be accessible and responsive to the needs of community members. In my current role, I participate in recruiting and have intentionally hired individuals from a variety of backgrounds. I also regularly reach out to community partners. I have visited the Immigrant Resource Center of Maine, and then attended a training by the center's executive director; I attended the Building Bridges Conference; the Equality Maine Dinner; the MLK Dinner and look forward to having frequent community involvement.

11. Will you ensure that every stage of the criminal process is communicated to *pro se* defendants and victims in terms they understand and take time to explain the process without legal jargon?

YES X or NO _____

If "YES" please explain specifically how you will implement this policy. If "NO" please explain your policies and plans for this issue. [Use this space to respond in 100-200 words or less]

The office will have specific and publicly available policy on case dispositions and protocol concerning pro se defendants and victims.

12. News reports and academic research indicate that police officers misrepresent facts and lie in incident reports and in court testimony. New Hampshire prosecutors reportedly keep lists ("Laurie" lists) of police officers who commit such misrepresentations, thefts or fraud pursuant to a 2004 directive of the Attorney General. Will you take steps to identify dishonest law enforcement officers and take appropriate actions?

YES X or NO

If "YES" please explain specifically how you will implement this policy. If "NO" please explain your policies and plans for this issue. [Use this space to respond in 100-200 words or less]

This is already required under law and essential to do justice. As District Attorney I would take steps to identify and instances of dishonesty among law enforcement by regularly inquiring into any misconduct and ensuring that that information is appropriately turned over to defendants.

Immigration

13. 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 possible and appropriate?

YES X or NO

If "YES" please explain specifically how you will implement this policy. If "NO" please explain your policies and plans for this issue. [Use this space to respond in 100-200 words or less]

By writing and adopting a policy that recognizes collateral consequences of convictions on immigration status and requiring that those collateral consequences are factored into case dispositions.

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

YES or NO X

If "YES" please explain specifically how you will implement this policy. If "NO" please explain your policies and plans for this issue. [Use this space to respond in 100-200 words or less]

It would not be standard to inquire about the immigration status of a crime victim or witness, but in some instances, it may be necessary. For example, in cases of domestic violence often times immigration status

can be used as a tool of power and control and may be relevant in a case. I would not participate in collecting this type of information in a formal, systemic way.

Juvenile Justice

15. Will you pledge to require, when possible, that juvenile trauma histories, other special needs, gender issues and so forth be considered at all points in the process when evaluating whether a youth should be incarcerated, diverted, or subject to other dispositions?

YES X or NO _____

If "YES" please explain specifically how you will implement this policy. If "NO" please explain your policies and plans for this issue. [Use this space to respond in 100-200 words or less]

Juvenile cases must each be addressed on an individual basis and in a manner that looks at each juvenile's individual needs to adequately craft a disposition that is fair and does justice. This requires considering the juvenile's trauma and other history, and any other special needs that factor into creating a supportive and safe environment for these youth.

Discovery

16. Maine's Rules of Criminal Procedure and U.S. Supreme Court decisions following Brady v. Maryland, 373 U.S. 83 (1963) require prosecutors to produce all evidence favorable to defendants even if known only to law enforcement or not requested by defense counsel. Will you institute and enforce particular policies, staff trainings and procedures to comply with these legal discovery requirements?

YES X or NO _____

If "YES" please explain specifically how you will implement this policy. If "NO" please explain your policies and plans for this issue. [Use this space to respond in 100-200 words or less]

As District Attorney, I would require all staff to be regularly trained regarding their responsibility under Brady and the rules of discovery and have policy and procedures in place that would ensure that all evidence is turned over to defense counsel in a timely manner.

17. The recent Anthony Sanborn case disclosed that police officers had withheld arguable Brady material, secreting a box of evidence in a retired officer's attic for decades. Will you take strong steps to investigate and sanction failures to comply with the Maine Rules on discovery in criminal cases and the Brady line of U.S. Supreme Court cases?

YES X or NO _____

If "YES" please explain specifically how you will implement this policy. If "NO" please explain your policies and plans for this issue. [Use this space to respond in 100-200 words or less]

As District Attorney, I would require all staff to follow the rules of discovery mandating prosecutors turn over discoverable material in a timely manner.

Relevant Qualifications

18. In 200 words or less, please describe how your education and experience qualify you in particular to serve as Cumberland County District Attorney. **[Use this space to respond]**

I am currently the Head of the Sexual Assault, Domestic Violence and Elder Abuse Unit for the Kennebec County District Attorney's Office. I am an aggressive advocate on behalf of victims of violence and passionate about criminal justice reform. After earning a B.A. from Brandeis University and my law degree from Boston University School of Law, I began my legal career clerking for the Maine Superior Court and went on to represent indigent clients, prior to becoming a prosecutor in 2013. Having participated in the system from all sides, I have a unique perspective. I would like to see the criminal justice system become more equitable, reserving incarceration for perpetrators of violent criminal conduct and an increase in diversion and treatment for lower level offenders. What sets me apart from other candidates is that I have both the vision of what criminal justice reforms need to be made and the experience and knowledge to implement those changes. I am the only progressive candidate that has worked both in a modern district attorney's office as a prosecutor and as an administrator and in private practice as a defense attorney. These experiences have allowed me to see criminal practice from all sides.

Please answer all questions above and email your responses to attorney@angusferguson.com on or before April 28, 2018 at the latest. Call Angus 749-6618 with any questions or concerns.