

Dear ACLU and Partnering Organizations;

Thank you for the opportunity to provide my beliefs, thoughts, ideas, and plans in regards to issues in our criminal justice system. This is the first Prosecutor race in a generation for Whatcom County and this change gives our community the opportunity to hit reset on how we approach justice and incarceration. I'd be honored to have your support.

I'm asking to be Whatcom County's next Prosecutor. I've got the experience and leadership needed to make big changes in our system. Under my leadership serious crime will result in serious jail time, but many crimes associated with drugs or mental health issues will be diverted out of the system and into treatment. We don't need a revolving door into jail. We can get better results by focusing resources on serious crime and for others, focusing on treatment and keeping low-level offenders out of jail.

Public safety is a big part of this job and for the past five years I've served as the Chief Deputy Criminal Prosecutor of Whatcom County, working to protect our community from those who commit serious crimes. I am committed to keeping everyone safe. I oversee 14 attorneys and have handled thousands of criminal cases, including rape, murder, felony assault and animal abuse.

There's one part of my work I want to tell you a little more about, and that's the weekly Special Assault meeting for law enforcement, victim advocates and community members. Every Wednesday we meet to discuss the cases that are hardest to prosecute to make sure we're turning over every stone in finding a path to justice for victims. These tough cases are often assault of children, women, the elderly. They can be hard to prove and hard to convict and that's why we meet weekly so that we can collaborate and brainstorm approaches to prosecution. Our goal is to keep the community and victims safe. I run this meeting, I'm proud of this work and good ideas and good community outcomes have been the result.

Reducing incarceration isn't just a campaign platform: I have been a volunteer on the Whatcom Democrats Issues and Advocacy Committee and helped write their criminal justice platform. It reflects my values and my goals. Passing this at the Whatcom Democrats was a step forward in staking out our community's priority for change, putting together a plan and in advocating for the changes we need.

My other community service shows my passion to protect victims: I serve on boards and committees for Brigid Collins and DVSAS. I'm supported in my campaign by those who share my passion for protecting victims and reducing incarceration: Jenn Mason, Karen Burke, Heather Flaherty, Kirsten Barron, Lisa McShane, Byron Mannering, Laura Clarke, Warren Page, Steve Brinn, Darrin Hall, Starck Follis, Barry Buchanan and Firefighters Local 106. These have been some of the strongest voices in our community for victims, for children, for protecting women, for keeping animals safe, and for reducing incarceration and I'm proud to be aligned with these community leaders.

As you know, making progress and challenging the status quo can be difficult and at times slow-moving. I believe change happens at the speed of trust, and I have built strong relationships with leaders both in the criminal justice system and in our community - those very same leaders that I will work with tirelessly to reverse the trends of mass incarceration. I appreciate the care you have taken in putting this survey together and I look forward to any further discussion. If you have any questions please give me a call: 360-961-6491.

Respectfully,

Eric Richey

## Metrics for Success

**What metrics do you believe should be used to determine whether the Office of the Prosecuting Attorney is succeeding in its mission and improving the criminal justice system? How would you realign local, state, and federal budget appropriations to support your vision of how we could most effectively accomplish the following:**

In my years of experience, I have come to believe the mission of the Prosecuting Attorney's office is threefold: to work tirelessly on behalf of creating a safer community; upholding the law and creating mechanisms for appropriate accountability for those who violate the law; and doing everything we can to provide resources to victims of crime while walking with them and guiding them through a complicated and challenging justice system.

For my office, I believe the following metrics will indicate whether we are achieving this mission on behalf of our constituents:

1. Are crime rates going down? Are we keeping the community safe?
  - a. Are investments being made in prevention efforts and programs, and are we able to actually prevent people from getting to a place in their lives where they are committing a crime?
2. Are victims of crime receiving resources that they need? Are they feeling cared for by our office? Communicated with appropriately and effectively? Advocated for?
3. Are people who are committing crimes being held accountable in an appropriate way?
4. Are we reducing recidivism?
5. Is the jail population decreasing? Are we effectively and safely reducing incarceration? And therefore, reducing our need for a larger jail?
6. Are we diverting people away from the justice system, through programs such as LEAD, and what percentage?
7. Are we creating capacity within our therapeutic courts, such as Drug Court, Mental Health Court, and a Trauma-Informed Court? Are people being broadly and appropriately admitted to these courts, if diversion is not an option?
8. Are we reducing racial disparities in our policing and prosecution of crimes?
9. Are we saving tax dollars by reducing jail bed days, and/or reinvesting tax dollars in proven solutions such as treatment, housing, social services, etc.?

I will measure success by listening to our community members and through empirical data analysis. Complaints and accolades are expected when serving the public in a government agency and may not be enough feedback to measure success. However, collecting data with analysis to determine if we have done what we set out to do is important for our mission.

For instance, I want to reduce incarceration. With data collection and analysis, I should be able to tell if we have **fewer people incarcerated and fewer days of incarceration for people from the previous year.**

I also want to reduce simple felony possession of drug cases to misdemeanors and sentence to treatment without incarceration. With data collection and analysis, I should be able to tell if **fewer felony drug possession cases were filed from the previous year and whether sentences included treatment instead of incarceration.**

The same goes for **getting more people into drug court and mental health court.**

**Eventually we will be able to ask the question if recidivism rates have dropped for any types of crime with our new plans over the previous year.**

And, I will track how many lower level crimes against community members who are undocumented are reported. I want everyone to know that they have access to justice, regardless of their status and **if that number doesn't increase then I will increase my outreach.**

Additionally, I believe that if we can make investments in prevention efforts and build a stronger safety net for our community, beginning even with early childhood investments, we will see the most significant return on criminal justice reform. To really consider prevention, we have to start asking the question - Why is someone committing a crime?

The answer to this question isn't always clear-cut, but it's important to start there because finding ways to prevent crime will be as varied as the individuals who commit them. I know that some of the reasons why people commit crimes are because they have been born into poverty, have had poor role models, received poor parenting, succumbed to peer pressure, have drug addiction issues, suffer from mental illness, or have been a victim of crimes themselves. These kinds of events in someone's life have been identified as ACEs (adverse childhood events) and we now have research that shows that the more ACEs someone has, the more likely they might be to end up in the criminal justice system at some point in their lives.

To really get serious about prevention, we have to set a diverse table of stakeholders to look at these issues and flip them upside down. We have to invite school counselors, early learning providers, housing experts, school administrators, drug and alcohol counselors, literacy specialists, after school program providers, the health department, and local foundations such as United Way to join the traditional actors in the justice system in creating stronger ties in the safety nets of our community. We have to provide counselling, treatment, and housing.

Counselling is well known to be the best answer to resolve ACE issues so that people can lead more productive and happier lives. Treatment is the only humane response to those who suffer addiction and mental health issues. And housing is known to prevent crimes that otherwise might occur as a result of poverty and homelessness. We clearly know that incarceration has not solved any of these issues, and arguably has only made crimes happen more frequently. I would like to see funding diverted from incarceration and criminal justice programs to be spent on social justice programs designed to prevent crime from happening. With these efforts and investments, we will track crime rates and if crimes are actually going down, I will know my office is succeeding.

Additionally, I believe that victims of crimes must be considered in every decision made by the prosecutor. As an experienced prosecutor, I can tell you that victims want the prosecutor to do many different things, and often victims of crimes are much better assessors of the danger they face going forward than any criminal justice participant. However, taking the victim's ideas and concerns into account does not mean that the prosecutor should do everything that a victim asks a prosecutor to do. For instance, punishment for the offender may not be the best course of action to protect the community, and conversely letting an offender off may not provide protection to the victim in the long run. Listening to a victim's fear and making sure the victim knows what is happening in the court system is a necessary component for justice. The prosecutor must take in all the information and determine what the best course of action is to protect the victim and the entire community from further crime. The

reason I do what I do is because of my care for people and if the people my office is fighting for feel cared for, I will know we are succeeding at this part of our mission.

Holding people accountable for the crime that they have committed does not always mean that incarceration or entanglement with the court system is the right course of action. Sometimes the criminal justice system can get people's attention and stop bad behavior with a simple conversation. The criminal justice system should tread lightly when possible and appropriate and only get involved in people's lives when it is necessary to protect the community in the future. Punishment for punishment's sake is an outdated mode of criminal justice that has not provided a safer community. Yes, some dangerous people are going to need incarceration in order to protect the community. However, more people are going to benefit from treatment than incarceration and that will better protect our community in the long run. If we see recidivism rates go down, diversion rates go up, increased admittance in our therapeutic courts, and a reduced jail population, I will know my office is succeeding in this area of our mission.

Ultimately, I believe that recidivism rates would drop significantly if we treated offenders with dignity, and treated people for underlying conditions rather than always using incarceration as if it's our only tool. Gone are the days when our toolbox is limited as a prosecutor, and I am committed, open, and willing to try new things, to be innovative, and to take calculated chances to make our community a better, safer place to live. For those who are determined to be dangerous and do receive incarceration, reentry must be the goal from the very beginning of the individual's journey in the system and efforts should be made to help people get job training, counselling, and treatment within the system as well. Recidivism rates should fall over time as more people who come into contact with our criminal justice system are treated with dignity and with the mindset of rehabilitation over punishment and care over condemnation.

## **Bias**

### **What training, supervision, and review policies and practices would you implement to identify and eliminate explicit and implicit biases in the screening, filing, and prosecution of cases by your office, and to promote equity and inclusion in your workplace?**

Eliminating explicit and implicit biases in the screening, filing, and prosecution of cases by my office will be a high priority. There is no question that our criminal justice system has disproportionately prosecuted and jailed minorities and those without privilege or wealth. I believe this has to change, and it has to change in a significant way, starting with a review of ALL of our policies - written, unsaid but practiced, cultural, and procedural - taking a deep look at everything we do and with expert assistance, rehauling and retooling practices to eliminate explicit and implicit bias, and ultimately to create a more equitable, fair, and just justice system.

Philosophically, I have always believed that advancing equity is also an inherent part of seeking justice, although I recognize that sometimes our criminal justice system has done just the opposite. I believe that seeking justice is what a prosecutor should do in every decision made on every single case. With prosecutorial discretion and appropriate training, for example, a prosecutor could choose not to prosecute someone who was unfairly targeted by law enforcement.

Here are the broad steps I will take if elected:

1. I have already initiated conversations with a trainer named Toi Sing Woo from New Directions Consulting and we have discussed ideas and a plan for her to work with my office, assessing where we are at in terms of equity, diversity, and inclusion in all of our policies and practices. If working with Toi does not work out, I will be seeking an expert consultant to come in, assess, and help us understand what practices and policies need to change.
2. I will make sure my office is committed to learning, engaging, and continuous improvement through ongoing trainings, evaluations, and feedback, as one training does not fix everything and I believe this is a generational and even a lifetime journey of learning, not simply a box to check.
3. I am also deeply committed to listening to disproportionately impacted communities in Whatcom County. I have started building relationships with members of the Racial Justice Coalition, the Homes Now Coalition, and the Whatcom Civil Rights Project. I want to build an authentic, genuine relationship with these individuals and communities and I believe that starts with listening. If meeting with me is the easiest way, then we will meet. If they'd like my cell phone and to be able to call me directly, then I will give them my phone number. If a quarterly forum is the best way to keep communication lines open, then we will have quarterly forums. Whatever it takes to build trust and to make sure my office is truly listening and changing our practices based on what we're learning, that is what we will do.
4. I am prepared to make investments in data collection for racial disparities in our practices and justice system, and I am committed to sharing that data with our community. Transparency is a value of mine and as a civil servant, I take the responsibility and commitment to our community members who put trust in us very seriously.

Additionally, there are a number of other areas I would focus on to advance equity as Whatcom County Prosecutor:

**Diversion:** More and more, I believe it is important to look deeper at individuals who commit crimes and really try to get to the root cause in understanding someone's situation. For example, if someone is arrested for possession of heroin, most of the time there is a backstory that is important to understanding how that individual got to that place. I believe that addicts should not be labeled as felons and as County Prosecutor, I intend to work with law enforcement to implement a true Diversion program, similar to the LEAD (Law Enforcement Assisted Diversion) program in Seattle where low level crimes are diverted away from arrest and into treatment. Not entering the criminal justice system in the first place is often our best approach.

I will work with GRACE, our County's newly launching care coordination team, to hold charges for people who need treatment and care, not incarceration. In other words, I believe in understanding why someone might end up in a position where they are committing a crime of desperation or poverty, and I do believe in taking not only collateral consequences of incarceration and criminal justice system involvement into account, but also life circumstances so as to recommend a course of action that makes both the individual safer and healthier, but our community too. It is beyond clear that incarceration is an extremely expensive, often ineffective way to respond to many of the low-level crimes we see people committing.

**Racial Disparity in our local jail:** According to the VERA Report, we do have racial inequalities in our jail. If you are an African American or Native American, your chances of being jailed in Whatcom County are 6-9 times higher than if you are white. That issue is complex and something that I am anxious to dig into and I will support our law enforcement in their best practices to eliminate racial profiling, recognize bias, and create better equity and equality in their policing. I also am committed to refreshing the Prosecutor's office culture to make sure every single person on our team has training in equity and diversity and how we can be more culturally competent and recognize bias in our prosecutorial recommendations to judges and in our sentencing practices. I believe this work is important, necessary, and may take generations to truly come to fruition. I also believe that bias is not inherently bad and that we all have it, but it is extremely important to be able to recognize when it pops up and take steps to mitigate it proactively.

**Hiring Practices:** If elected Whatcom County Prosecutor, I am committed to working with our HR department on making sure our hiring practices are fair and that we have diversity of experience, gender, and race represented as prosecutors and employees in our office. I believe the way we recruit, interview, hire, and retain our talent should be looked at with fresh eyes and with a true commitment to increasing equity internally. We will all benefit from having a wider range of voices and perspectives in our office.

**Undocumented individuals deserve access to justice:** I am committed to not alerting federal agents when an undocumented individual has been a victim of a crime – they deserve access to justice too, and I do not intend to alert federal agents in these cases, nor have I ever in these cases. As prosecutor I'll be proactive in making sure this is well known in our community so that everyone can come forward to report a crime, regardless of their status. These are a few more "technical" but direct ways I can impact equity in our community through prosecutorial policies and practices.

**Bail/Pretrial Risk Assessments:** While I realize the pre-trial risk assessments are fraught with challenges, especially if they are built off of historic data that comes from a system that is biased and has disproportionately deemed people of color more at-risk, I also would like to see us move away from a cash bail system, ultimately striving for a culture of release. That means I will be working with the prosecutors in my office to implement changes in how we recommend bail and at what level, if at all. I'd like to see us take steps away from how we do things currently, and I support Whatcom County Judges in their development of a pretrial risk assessment tool that will reduce (and ideally eliminate) our need for money bail. In that process I'd like to bring in representatives from the ACLU to know why you opposed the recent bail reform legislation in California and to hear your ideas for a risk assessment tool that is equitable and effective.

Too often, people are sitting in the jail simply because they are too poor to pay bail. That fact does not sit well with me and I would like to align prosecutorial recommendations for bail with the risk assessment tool once it's been developed, barring it does not make the pretrial jail population increase and create the opposite outcome we intend. Ultimately, holding someone pretrial comes down to two factors to me – how likely is someone to commit another crime if not detained, and how likely is

someone to show up to court. We have proven alternatives to getting people to show up to court (like electric home monitoring, case management, and even things as simple as reminder phone calls and text messages) and hopefully, with the help of a community-appropriate risk assessment tool, we will better be able to predict likelihood of committing another crime – so this will help a lot with the issue of bail locally, which again, is another way I would like to advance equity: no one should sit in jail because they are poor.

**Healthy Youth:** I believe that to truly reduce crime and incarceration, we have to look upstream at pre-existing, reinforcing, and enabling conditions that contribute to an individual's life. I believe that you have to start with children being born to healthy mothers and having access to good schools, safe neighborhoods, access to healthcare, and clean water and sidewalks. You have to work to reduce the high-school dropout rate, to reduce truancy, and to address juveniles who commit crimes or make mistakes holistically, with rehabilitation as the main and only goal – not punishment. I believe we can reduce juvenile incarceration to zero in Whatcom County and I will do everything I can in my office to support community efforts to provide resources to our youth and to help all children grow up in a healthy environment.

**Reentry:** For those individuals who do end up incarcerated, reentry should begin the second they've entered the justice system. By that, I mean we should be working with individuals with that mindset – how are we going to make sure people leave incarceration prepared and better off than when they entered. What are the resources we need to be providing? Education? Treatment? Job skills? We know that 2/3 people end up back in jail within 5 years of their incarceration – we need to do better in this area and I will support robust re-entry programs and will advocate for resources to help in this area.

Lastly, I realize that as a person of considerable privilege, I have a commensurate responsibility to speak out for equity, no matter the position I have in life, whether as Criminal Deputy Prosecuting Attorney, Whatcom County Prosecuting Attorney, DVSAS Board Member, husband, father, or even as a grocery shopper. I know that I can use my position of influence to advance equity by standing up for others who have not been afforded the same privileges as myself, by supporting amazing community groups and community leaders (such as yourself) in their work to advance equity, and supporting alternatives to incarceration and criminal justice reform efforts, even if they fall outside the technical purview of the Prosecutor. As part of this opportunity to campaign for this position, I have truly enjoyed getting to hear about a variety of perspectives on the current state of our criminal justice system and of my office as it is led and works now – and if elected, I would like to continue listening to all constituents, stakeholders, and community members about their ideas, concerns, hopes, and wishes for how the Prosecutor can continue to promote public safety and seek justice for victims of crime.

## Bail

**In Washington, up to 70% of those in our county jails are being held pretrial because they cannot afford bail. Pretrial detention is a leading cause of mass incarceration and racial disparity in Washington's criminal legal system. What specific steps have you taken or will you take, if elected, to reduce or eliminate the imposition of cash bail and reduce the pretrial detention rate in the county jail?**

Bail is a right under the Washington State Constitutional for all citizens charged with crimes, other than for capital offenses. Bail is largely a judicial function to make sure that those who have committed crimes do not further harm the community and that they to return to court. The problem with bail is that rich people may buy their way out of jail, while poor people might be stuck there awaiting trial. Nobody should be held in jail just because they are poor.

Here are the main steps I will take if elected to reduce or eliminate the imposition of cash bail, and to reduce the pretrial detention rate in the county jail:

1. Review all cases of people currently sitting in our jail pretrial to gain a better understanding of the current state of charges, bail amounts held for, and jurisdictions involved. I believe in order for us to know how to get better, we need to have a good understanding of where we are starting from, and once a baseline is established, we will be able to track progress.
2. I will implement a policy for my prosecutors to not request bail at all for certain low-level charges or for drug offenses. My main priority for recommending bail will be if someone is truly deemed to be dangerous to the community, meaning if they will attack someone again, or stalk someone again, or put someone in physical or bodily harm. There are very few people who pose a true flight risk. I am grateful to prosecutors like Larry Krasner who are paving the way for these kinds of policies in prosecutor offices.
3. I will make sure we are investing in robust pretrial services, providing resources, reminder texts or phone calls, and aiding people in getting to their court dates and navigating the justice system.
4. I am committed to using my platform and "bully pulpit" to lobby in Olympia to change whatever laws need to change to enable a true presumption of innocence and a culture of release in our courtrooms. In Washington, ending money bail, would probably require an amendment to the Washington State Constitution, and the law would need to be carefully written to avoid too much judicial discretion that might result in increasing incarceration. I would suggest that the law include implicit bias training for judicial personnel.
5. I will also work closely with the Incarceration Prevention and Reduction Taskforce Law and Justice subcommittee and Pretrial Risk Assessment work group to help the work on transparent, unbiased risk assessments, to build stronger relationships with Judges and others working on this, and to show my commitment to building solutions in our community.



## Disabilities

**People with intellectual disabilities have a 4 to 10 times higher risk of becoming victims of crime when compared to those without disabilities. They are also over-represented in the prison population: while they comprise just 2 to 3 percent of the general population, they represent 4 to 10 percent of the prison population, with even greater disparities in juvenile detention facilities and jails. Would you support cross-training and coordination among schools, police departments, victim service providers, and judges and courtroom staff to promote a comprehensive community-based response to situations involving people with intellectual and other developmental disabilities so they can experience equitable justice? If so, how?**

Yes, I will support cross-training and coordination among schools, police departments, victim service providers, and judges and courtroom staff to promote a comprehensive community-based response to situations involving people with intellectual and other developmental disabilities so they can experience equitable justice.

Here is how I will do this:

I will host an invitational round-table and invite stakeholders and decision-makers to join me to begin a discussion about what this looks like in our community, Invitees will include community members such as Dr. Greg Baker, the Bellingham Public Schools Superintendent; Mary Sewright, the Mt. Baker School District Superintendent; Byron Mannering, Executive Director of Brigid Collins, a nonprofit that works with children who have been abused; Sheriff Bill Elfo, Whatcom County Sheriff, and the Chiefs of Police from each jurisdiction, including Bellingham, Lummi Nation, Nooksack, Everson, Lynden, Ferndale, Blaine, and Sumas; Karen Burke, Executive Director of DVSAS; Beverly Porter, Executive Director of the ARC of Whatcom County; Judges, Probation Officers, Public Defenders, and Corrections Officers.

I believe this is a significant concern and issue and I think it will require getting this group together to discuss the current state of disparity in our justice system for those who are mentally challenged or disabled. From there, I know we can better coordinate and cross-train through developing trust, relationships, referral systems, and building understanding of the situation.

It may make sense to invite an expert trainer to work with each group as well - for example, a training catered to police and first-responders in working with and recognizing individuals who are intellectually challenged should lead to a more informed response, less incidents of escalation and unnecessary arrests and involvement with the justice system.

In my years of experience, I have come to understand the relationship between intellectual disabilities and both victimization and offending. I have handled cases that are heartbreaking - where individuals with disabilities have been victimized, and unknowingly then have become offenders themselves. We are fortunate in Whatcom County to have the leadership in our schools and victim advocate organizations that have already been making strides in appropriately responding to individuals who have intellectual disabilities and keeping them out of the juvenile justice system. Additionally, collectively the school districts in Whatcom County have worked hard to end the school-to-prison pipeline, and I believe their work has contributed to a decrease in juvenile crimes of 85% over the last 10 years.

There is more to do, and I will start with getting the right people in the room to have the discussions that need to be had, to make decisions about investments that need to be made in training or resource development for impacted individuals and their families, and to develop the systems and processes that will allow for robust coordination of services.

## **Drug Policy**

**Drug arrests have risen in Washington over the last few years – more than 12,000 in 2016. Do you believe that people with substance use disorders should face criminal penalties? Do you believe people who use drugs and do not have substance use disorders should face criminal penalties? What types of charging practices, diversion programs, and treatment programs do you support?**

As the Whatcom County Prosecutor, I would like to treat drugs as a health problem instead of a criminal justice problem. I want to see people get treatment instead of incarceration. I do not want to label drug addicts as felons. Since the beginning of my campaign, I have stated that, “the war on drugs is over and the government lost.” I believe those who are addicted to drugs and are arrested for simple possession should be diverted out of the criminal justice system and certainly away from incarceration, given reductions that include treatment, or admitted to drug court. I do not support a felony conviction, or incarceration for those addicted to drugs.

As Prosecutor, I can reduce charges or hold charges when it makes sense, but it often remains difficult to encourage people to obtain treatment if they do not want treatment. Offering treatment without incentive or consequence might have success with some people but others may not be ready to enter treatment. The issue is complex, and one approach will not work for everyone. We will have to offer many options, such as reductions and treatment on simple possession cases or increased access to and entry into Drug Court, which is a therapeutic court requiring treatment. Charges will be dismissed upon Drug Court completion, and small punishments and rewards will be given along the way to make sure that a person is moving in the right direction.

Right away when elected, I will implement policy that favors diversion away from the criminal justice system for simple possession of hard drugs. If the Criminal Justice system is the safety net for these individuals, which I don't believe it should be, then we need to use the tools we have humanely and with the goal of rehabilitation, not punishment. For example, for some individuals, receiving a misdemeanor (rather than a felony) may be all it takes for them to never do drugs again. For others, a probation like program that has a treatment component may be the incentive that is needed. And for some, they will find success through programs like Drug Court, which operates on a peer support plan to help people overcome addictions to drugs. This program may have the most success rates of all the court programs that involve treatment and for that reason should not be discounted. Because of that, I intend to increase the number of people eligible to participate in drug court. We are currently limited to approximately 65 people based on the staff limitations in Superior Court, and I will advocate to increase those numbers.

I support programs such as LEAD and am committed to creating one in Whatcom County. And overall I support the idea of diversion - but it's not enough to divert people away from the system - you have to have something to divert them to. That means investment in community support systems, treatment providers, job training, housing, and other safety net type programs.

I support expanded use of therapeutic courts, such as Drug Court.

I support any evidence-based treatment that helps an individual get their life back on track and be a contributing member of society.

I support reducing charges, holding charges back, and not charging at all depending on the situation and what will ultimately be safer for the community in the long run - we know that time in jail can lead to people committing more crimes, so while we may be “safer” while someone is incarcerated, they will eventually come out, and usually not better off or better prepared to live a healthy life. For that reason, sometimes it makes sense for Prosecutors to not charge for drug use or possession at all.

I recognize that this is a significant issue in our community and we are seeing substance abuse rates increase. I support the groups working on reversing this trend and I am heartened by the plans to build a new Triage facility, which I believe will give our first responders more options. Instead of bringing someone to jail, they will now be able to bring them to a facility to detox or to stabilize, and I believe that will make a big difference as well.

## **Mental Health**

**According to the Washington State Department of Social and Health Services – “demand for all forms of mental health services far outweighs what is currently available including competency evaluation and restoration services.” What specific steps will you take as prosecutor to keep people with mental illness out of the criminal justice system and to get them into community treatment?**

People should not be incarcerated just because they have a mental illness. Five years ago my office, along with the Public Defender and District Court, developed Mental Health Court, which is another therapeutic court designed to get people involved in treatment rather than incarceration. While it is a great program, it too has limitations on how many people can benefit from the program based on funding for staff, and on limited mental health services in the community. We need more mental health services locally and I will advocate for such.

I also will participate as a team member of the newly founded GRACE program. GRACE is Ground-level, Response and Coordinated Engagement, which is designed to be a coordinated wrap-around service plan to help those who are repeatedly using systems such as the jail and the ER. The idea is to identify those who need wrap-around services from multiple agencies to make sure that people are getting treatment, food and housing so that these people lead better lives and are less likely to end up in bad situations. People who will be helped by GRACE will often be those with mental health issues, and GRACE will help them stay out of jail.

Competency determination and restoration has been too lengthy of a process for individuals charged in Washington. Western State Hospital has been underfunded for years and our community suffers as a result. I can do two things to help this process.

1) I can lobby to ask that Western State Hospital receive adequate funding to meet demand, and 2) I can make sure that we only hold people in-custody awaiting determinations and restoration who are known to be dangerous.

Although your question did not specifically ask about trauma informed approaches as they relate to

mental health and competency evaluations, I would like to add that I believe that court personnel, defense, prosecution, judicial, probation and corrections, should obtain training in how a history of trauma affects people in the system and how trauma sensitive treatment may more effectively treat the causes that brought the person to court. The current system of incarceration produces more traumas for those who were suffering before even arriving in court. Increasing the understanding of traumatic responses would enable justice system personnel to better understand a person's reason for committing crimes, and consequently create a better understanding to how dangerous a person might be if left to remain in the community. Currently many people who await competency evaluations are detained because they are considered dangerous or flight risks. I'm hopeful that a risk assessment tool for bail will address trauma so that people will not be held in-custody for competency evaluations unless absolutely necessary.

Additionally, I believe treatment for behavioral health is best provided within a community, not within the walls of a jail. If someone is truly dangerous though, or is serving a sentence, there is no reason we shouldn't be providing treatment to them in the jail too. When making prosecutorial decisions, this is something that is important to take into account.

For those who are released who may be at-risk for re-arrest or re-institutionalization, this is where I believe robust, comprehensive reentry programs can be extremely helpful. If we can release people into the community better prepared to manage their lives, connecting them to resources such as treatment and counseling, or housing, or jobs, and enabling individuals to develop better coping skills, our whole community will be better served.

Finally, I have great concerns about prosecuting people who have mental illness and who have committed crimes. As your next elected prosecutor, I will be very careful in charging people with crimes when I know that mental health issues have caused the person to commit the crime.

## **Prostitution**

**In 2011, King County and the City of Seattle launched Law Enforcement Assisted Diversion (LEAD), the first known pre-booking diversion program for people arrested for narcotics or prostitution offenses in the United States. In prostitution cases, offering people diversion to services at the first point of police contact, before any formal charges have been filed by a prosecutor, is intended to reduce the harms experienced by individuals who are trafficked or are engaging in the sex trades due to complex economic, mental health, and substance use reasons. What are your thoughts on this approach?**

The LEAD program has shown incredible effectiveness in reducing recidivism for both drug crimes and prostitution. I fully support offering diversion to services at the first point of police contact for any person involved in prostitution. We need to do everything we can to eliminate sex trafficking and to protect individuals who have been victimized and exploited by the sex trades.

In addition to LEAD, I would like to see our community look at something called the Nordic Model. The Nordic Model focuses prosecution on the "Johns," and the "pimps" rather than on the prostitutes. This model recognizes prostitutes as victims of the sex trade industry. This approach is considered by many, including Karen Burke of DVSAS, to be the most enlightened approach to dealing with prostitution in the Prosecutor's office. Val Richey of the King County Prosecutor's Office has been teaching this approach for years, and in prosecuting Johns, he talks about using a "John School," to

help those who sought out prostitution services to empathise with women who are often forced into the sex trade. We have had a few cases here in Whatcom County where we utilized elements of the Nordic Model and recognized prostitutes as victims of the sex trade industry, going after the pimps instead of punishing the prostitute. This needs to become the norm, not the occasion, and I will work with Police, Social Workers, and Prosecutors to make sure we are providing resources to people involved in prostitution and prosecuting the exploiters, not the exploited.

### **Automated Decision Making**

**Increasingly, judges are turning to risk-assessment tools created by private companies to make bail, sentencing, and supervision decisions. The private vendors do not disclose the calculation formulas and processes that produce the tools' recommendations. Significant evidence suggests the recommendations produced by these tools amplify existing racial biases in our criminal justice system. What recommendations would you make about whether and how the county should use such tools, and how the county should monitor and evaluate their reliability and effectiveness?**

I have serious concerns that an automated risk-assessment tool will incarcerate more people than we currently do using our traditional bail criteria. To avoid that, the committee under the Incarceration Prevention and Reduction Taskforce is planning to modify the validated risk assessment tool to ensure that fewer people will be incarcerated using the tool. Given that the ACLU recently opposed a bail reform bill in California I'd like to hear from you sooner, not later, so that we can use your information and ideas as we create this tool. If numbers show that people of color, women, or LGBTQ identified, are incarcerated at a rate higher than what is represented in the community or higher than national averages, I will recommend that the risk-assessment tool be immediately modified to help reduce what may be an automated bias.

What I'd like to see is a movement toward a true culture of release and presumption of innocence - I believe if we do use automated tools, they should really be assessing likelihood of further danger to a community, with less emphasis on flight-risk. I think if we do start using a tool like this, we need to have an oversight body that continually reviews the decisions and outcomes in the cases in which the tool is used, and possibly give that committee the ability to overturn decisions or at least appeal them when bias in the decision is evident.

Ultimately, I am glad to see strides being made to move away from money bail and reducing bias in the courtroom and justice system. I believe we will need to take smart chances and try innovative approaches as they evolve, and some ideas might not make things better, but we won't know unless we try. I am committed to trying, and to learning and course-correcting and continuing to build a better justice system.

## Juvenile Justice

**In 2018, the Washington Legislature passed SB 6550, which expands the ability of prosecutors to divert most juvenile offenders, including those who have committed felony offenses or who have prior history. If you are elected, how will your office use the expanded authority granted by SB 6550 to implement diversion programs that are responsive to the needs of youth and prevent prosecution and incarceration?**

SB 6550 is a legislative success story. The previous caps on diversions in juvenile court did not reflect what we value in our community and that is giving juveniles second chances because studies show that a young brain is not mature until around the age of 24. Diversion programs are set-up for juveniles through the Juvenile Probation Department and I would like to do a review of these programs to make sure they are evidence-based, utilizing best practices, and are well-resourced. Also, my office will liberally use diversions for misdemeanors and for non-violent felonies because this idea reflects our community values. Juvenile Court only addresses cases up to the 18th birthday for individuals and research has shown that our brains are not mature until age 24. That is one reason why many jurisdictions have an additional drug court for people who are age 18-24. This court focuses on needs of individuals in that age group to ensure that these people have good outcomes from drug court. My office and the Public Defender are also looking into such a program at this time. Providing youth offenders with resources and diverting them out of incarceration is something I believe in - sometimes, it only takes one adult believing in a child to help them turn their life around, and if it comes down to my office, I will make sure we have 32 adults ready to provide that support and rise to the occasion.

## Reentry

**The Washington State Institute for Public Policy released a 2017 report detailing the effectiveness of several existing programs in combating recidivism and aiding reentry. If elected, how will you evaluate and utilize current programs to aid reentering individuals in your community? If elected, how will you and your office consider new and innovative ways to ensure successful reentry?**

If elected, I will align my evaluation of current re-entry programs with WSIPP's criteria:

- Is the program effective at achieving the desired outcome (such as reducing recidivism)?
- Is the program cost-effective and do the benefits of the program outweigh the costs?
- Periodically, I will have a risk analysis conducted to determine which programs consistently have benefits that exceed costs. \*Criteria taken from The Effectiveness of Reentry Programs for Incarcerated Persons: Findings for the Washington Statewide Reentry Council, WSIPP Report

Additionally, I will measure all office policy, decisions, and ideas, including those for reentry programs against the following criteria:

- Is it going to make the community safer? For everyone? Not just for white, privileged, straight people?
- Is it going to cost less and save money for taxpayers? Will there be a return on investment, and

better outcomes with a reallocation of resources or reinvestment of dollars? For example, when we spend money to keep people in jail, we have a 60% (on average) failure rate. If we take that same amount of money, can we reinvest it in another program that will reduce that recidivism rate? If so, I would consider that a savings to our taxpayers and a better success than jail.

- Will it reduce incarceration? Is it using the lightest touch from the system necessary?
- Will it increase transparency, give us better data, and create meaningful space for innovation and collaboration?
- Are we thinking from the broadest value, holistically, and starting at intercept 0 - down to the most technical policy - from arrest, to booking, to sentencing, to incarceration, to re-entry?
- Is it rehabilitation focused vs. punishment and condemnation focused?
- Is there a spirit of working together in the intersections - with schools and social services and County Council and police and judges? Even if a decision can't be made by the Prosecutor's office alone, we can bring people together to work on solutions and use our influence and relationships to support good ideas.

## **Hate Crimes**

**According to Uniform Crime Reporting (UCR) data compiled by the FBI, hate crimes have been on the rise in the U.S. since 2014. What instructions would you provide deputy prosecuting attorneys and support staff about the investigation, charging, and prosecution of hate crimes by your office? What actions would you take as a public official to discourage hate crimes in your county?**

*"When hate crimes occur, it is important that they be recognized for what they are. This is why crimes motivated by bias should always be reported as hate crimes and why prosecution for hate crimes should be pursued wherever possible. When law enforcement and public officials recognize such an act for what it is, and when they name it and treat it as what it is, they acknowledge and validate the experience of the victim and affirm the status of the victim as a full member of the community."*

*\*(Sheridan, Paul, Libby McInerney, and Michelle Gahee Kloss. 2015. A Prosecutor's Stand: Hate Crimes—Important Facts for Officers Leading Discussions of the Film. Washington, DC: Office of Community Oriented Policing Services)*

Crimes committed based on hatred of a specific group will be seriously prosecuted to the fullest extent under my leadership. A community simply cannot thrive unless all members of the community, no matter their race, sexual orientation, religion, ability, age, or gender, feel safe. The instructions I would provide to my team would be this: *we take these cases extremely seriously, and if there is any hint of bias in a crime, we will take the time to carefully investigate and decide whether to charge a hate-crime.*

These cases are often difficult to prove because the crime requires an additional intent element, so the investigation by law enforcement is critical. In many important cases, I am involved directly with law enforcement as they investigate crimes and I see law enforcement as essential allies in preventing and reporting hate crimes, and in protecting victims of hate crimes. Establishing that a person committed a crime because of the victim's race, color, religion, ancestry, national origin, gender, sexual orientation, or mental, physical or sensory handicap is fact specific and often requires additional steps to show what the person was thinking. As prosecutor, I will make sure that we have the best investigations possible, and that my attorneys aggressively seek justice in these cases.

There are a number of actions I would take if elected to discourage hate crimes in our community:

- Establish a Hate Crime Community Taskforce to meet quarterly and ensure open communication between minority communities and law enforcement and to build culturally appropriate solutions and responses to acts of hatred in our community.
- Establish a direct-line reporting mechanism for individuals to report hate crimes to my office, anonymously if they wish, and a commitment to looking into each claim.
- Create a community outreach plan, in partnership with local law enforcement, to make sure minority or impacted communities or individuals know this is a priority and that we need people to report these crimes, with an assurance of their safety if they come forward.
- Designate individuals within the Prosecutor's office to attend specialized training in the prosecution of hate crimes.
- Create data tracking and reporting mechanisms and sharing statistics with our community.
- Work with local law enforcement to understand and ensure our officers are trained to identify, respond to, and report hate crime incidents, as that has been shown to make a significant impact on investigations and to promote even more reporting by victims and witnesses.\* (According to "A Policymakers Guide to Hate Crimes")
- Work with local nonprofits to make sure victims of hate crimes have resources and support.

## Immigration

**For immigrants, being convicted of a crime can result in double punishment. They may go to jail, but unlike citizens, they may also face the devastating punishment of deportation - even for a simple misdemeanor. These severe consequences happen even if they have a green card, a U.S. citizen spouse and children, or long standing community ties. In the case of Padilla v. Kentucky, the U.S. Supreme Court made clear that prosecutors have the power to consider immigration consequences when they are making decisions about how to resolve a case, resulting in more just outcomes for everyone. When a conviction can lead to such disproportionate consequences even for a low-level offense, how do you plan to ensure just outcomes for immigrant defendants and their families?**

A recent report came out last winter on this topic called "The Prosecutor's Role in the Current Immigration Landscape" and I believe the authors stated it best when they said "Prosecutors are charged with serving the public and are expected to "act with integrity and balanced judgment to increase public safety, protect the innocent and convict the guilty, consider the interests of victims and witnesses, and respect the constitutional and legal rights of defendants." (Standards for Criminal Justice: Prosecution Function Standard 3-1.2 (Am. Bar Ass'n, 4th ed. 2015).) With these broad goals in mind, prosecutors have a vital role to play in ensuring that expanding federal immigration enforcement does not undermine community trust, public safety, or the fair administration of justice."

I agree, and I believe we need to establish the Prosecutor's office as a safe place for undocumented citizens. When deportation may be a consequence for prosecution, and destabilization of families may be a collateral consequence, we need to make sure that we are not actually undermining public safety and that we are acting in our community's best interest. As a practice, our office does not contact ICE (Immigration and Customs Enforcement) when we are working with someone who is undocumented. I



will continue that.

In my more serious cases, it is not unusual to be working with victims of crime who are undocumented people. I have noticed that it is less likely our office will work with victims of "lesser" crimes who are undocumented and I believe that is because those crimes are often underreported due to fear of the system and possible deportation. I think it is wrong that undocumented people do not receive the same access to legal justice as others in our community. When I see victims of crime who are undocumented in my office, we do not arrest due to immigration status, and they walk right back out the way they came in. We will never arrest someone who is attempting to access justice by coming to the Whatcom County Prosecutor's Office. I will be proactive in making sure this is well known and trusted in the community so that those who are undocumented have the same access to justice as a homeowner in Bellingham.