

**Alameda County Criminal Justice Advocates' First 100 Day Agenda for the Newly Elected
District Attorney
by the Alameda County DA Accountability Table**

The Alameda County District Attorney has historically pursued policies that over-criminalized low-income communities and communities of color and contributed to mass incarceration. Alameda County voters have given the new District Attorney a mandate to take active steps to stem this crisis and align the office with our communities' calls for decarceration, decriminalization, and prosecutor accountability.

The current system - and the punishment-oriented mindset that fuels it - disproportionately harms Black and Brown youth and adults in Alameda County. Black and Brown people make up an overwhelming two-thirds of the people incarcerated in Santa Rita Jail, and Black and Brown youth make up 87% of youth on juvenile probation and in juvenile detention. Opportunities for rehabilitation and transformation are often unattainable for low-income Black and Brown communities.

It is time for a new approach. By adopting transformative policies and practices - rooted in prevention, restoration, transparency, and accountability - the new DA has the power to begin to undo the devastating impact of incarceration on communities of color. We call on the new Alameda County DA to commit to the following policy and practice reforms in their first 100 days in office.

We urge the DA to adopt the following values:

- Be reform-oriented and open to restorative approaches
- Prioritize evidence and public health-based violence prevention approaches
- Commit to shifting criminalizing narratives and policies that have largely impacted houseless, poor, Black, and Brown people
- Practice transparency with their leadership transition and throughout their term
- Cultivate consistent communication with the community and accessibility with advocates, community leaders, and residents in addition to participation in monthly stakeholders meetings with the Alameda County DA Accountability Table
- Allocate department funding to and increase utilization of programs that rehabilitate such as diversion programs
- Reimagine “public safety” and work towards a future in which all of Alameda County’s communities have the resources they need to thrive

Transparency of the D.A's is Fundamental

We urge the DA's office to meet regularly with community members, including system-involved families, advocates, community leaders, currently incarcerated individuals, and residents.

We urge the DA's office to regularly publish up-to-date information and data about its policies and practices and outcomes including:

- Racial disparities
- Charging decisions
- Pretrial detention and bail practices
- Diversion programs and collaborative courts
- Case dispositions
- Resentencing
- Juvenile court and juvenile diversion programs

A full list of data points and variables that the DA should track and publish is included in Appendix below.

Proposed First 100 Day Agenda (January 2023- April 2023)

End Youth Criminalization and Transfers to Adult Court

We urge the DA's office to end the harmful practice of youth transfers to adult court and end prosecution of youth for typical adolescent behavior such as school fights, smoking marijuana, disorderly conduct, or other infractions at school that do not result in serious physical harm. The DA must institute a policy of presumptively seeking pre-plea restorative justice diversion for the five most common charges for youth, which were robberies (PC 211), Auto theft (VC 10851), Burglary (PC 459), Assault (PC 245), and Carrying a concealed weapon (PC 25400). All of these offenses, or variations of them, should be eligible for pre-plea diversion. Additionally, the DA must create a county-wide moratorium on filing youth transfer motions and charging youth as adults.

Decline to Charge:

We urge the DA's office to decline to charge offenses such as: trespassing, disturbing the peace, driving without a valid license, driving with a suspended license, criminal threats, drug & paraphernalia possession, minor in possession of alcohol, drinking in public, being under the influence of a controlled substance, public intoxication, loitering, loitering to commit

prostitution, and resisting arrest. Immediately end the DA's current strategy of targeting the "59" alleged Oakland gangs. Create a moratorium to end the use of life without parole (LWOP) or the death penalty.

Increase the use of Diversion Programs

We urge the DA's office to create a clear set of criteria for prosecutors to seek and increase diversion, in particular, pre-plea diversion such as mentor diversion. The DA must remove exceptions that would otherwise make someone eligible for diversion. The DA must eliminate prior convictions as an exclusion criteria for participating in diversion programs.

Mentor Diversion program: clarify eligibility criteria around "little to no criminal history"; expand eligibility to include gun possession charges, Estes robberies, burglaries, and assault cases; expand eligibility to include people who have prior felonies.

Behavioral Health court: expand eligibility for people on parole; create clear guidelines for people who are not on MediCal or SSI but are otherwise eligible to participate in this program.

Misdemeanor Pre-charging Diversion Program: expand eligibility to include people with DUI convictions, prior felony convictions; expand eligibility to include people who have been on misdemeanor probation; expanding eligibility to include people who may be on a gang database.

We urge the DA to dedicate staff time to evaluate capacity of pre-plea diversion program to make an assessment to increase and shift capacity

Timeline and benchmarks

A. First quarter

- a. Designate staff time to create an analysis of Alameda County's diversion programs. The analysis should include program utilization, program effectiveness, areas for improvement, and opportunities to expand program capacity. The staff designated to assess programs must work with community partners and the Alameda County Public Defender's office to inform the analysis.

B. Second quarter

- a. Share analysis findings with stakeholders and community partners. Establish a task force that can explore opportunities identified to expand programming.

End the use of Enhancements

We urge the DA's office to end the use of all enhancements that have largely impacted the Black and brown community members such as Gang Enhancements: PC 186.22(b)(1)(B), PC 186.26(d) End all Enhancements for prior felony convictions, PC 1170.12(A);, End all Enhancements for firearms: PC 12022(b)(1), PC 12022(c), PC 12022.53(b). The DA must end the use of two and three strike sentencing.

Resentence and Reentry

We urge the DA's office to collaborate with the Alameda County Superior Court and Public Defender's Office to set a clear policy for all requests for resentencing of people who are serving previously imposed sentences to receive judicial review, only keeping people in custody when there is clear evidence they are an immediate threat to public safety. The DA must review cases of all detained people starting with those over the age 50, those that are pregnant or those with serious health issues for release. The DA must release those who serve weekends.

We urge the DA's Office to dedicate staff within the department to flag cases for resentencing and to recommend people for resentencing without making any categorical exclusions based on sentence or conviction, and ensure the full implementation of 1172.1. The DA's office must support the full implementation of RISE SB 483 (Allen), SB 1437 (Skinner), SB 775 (Becker), and other mandatory resentencing laws. The DA's office must commit to fully supporting the retroactive implementation of the Racial Justice Act to combat bias in decision making including charging decisions, bail recommendations, diversion program placements, and plea bargains.

When individuals bring legal challenges under the AB 256 (Kalra) Racial Justice Act for All, the DA's office must commit to being proactive about providing access to relevant evidence, carefully consider the allegations raised and take corrective action when the challenges have merit. The DA's office should ensure agencies understand the barriers people face when they are released and reenter society. The DA's office must expand the eligibility and access to programs and services to facilitate reentry with AB 109 realignment funds. The DA's office should have a formal policy of not opposing parole grants.

We urge the DA's office to commit to participating in monthly meetings open to families who are seeking resentencing for their loved ones and agree to keep an open channel of consistent communication with family members. When a family is denied resentencing, the DA's Office must provide detailed reasons for the denial and specific information on the criteria that the person seeking resentencing would need to meet in order to qualify. There must be no criteria or limitation for who can file resentencing through the DA and the DA must provide formal opportunity to address concerns before resentencing decision is finalized. Additionally, the DA's office should not impede someone from being granted parole.

Immigration Considerations

We urge the DA's office to make certain that potential collateral consequences regarding immigration status are considered when reviewing cases. In 2020, a new policy was adopted by the DA's office which gives guidance to DA's Offices to strengthen the consideration of potential immigration consequences when reviewing cases. The DA's must agree to work actively with the Alameda Public Defender's immigration unit, other private counsel, and community groups to establish consistent communication in order to ensure that DA's actively avoid immigration consequences.

Police Accountability

We urge the DA's office to hold police officers accountable for illegal conduct. Police accountability is a crucial part of an anti-racist agenda to dismantle a system of mass incarceration that has targeted poor and working class Black, Indigenous, and people of color for decades. The failure to hold law enforcement accountable for unethical search, seizure, and arrest practices has directly contributed to the rise of criminalization in communities across Alameda County. The DA's are the only entity within the criminal legal system, outside of police departments themselves, who are responsible for addressing police misconduct.

Appendix: Data Transparency

We urge the DA's office to use its website to regularly publish up-to-date information and data about its policies and practices and their outcomes. Data should be published in an accessible format that allows members of the public to download and analyze the data (such as Excel or .csv format).

All published data should be disaggregated by date and by demographic information, including age, race and ethnicity, gender, city/zip code, housing status, employment status, and income.

The DA must work quickly to implement AB 2418, the Justice Data Accountability and Transparency Act, which will require state and local prosecutor agencies collect and publish detailed data on cases, including charging decisions, bail, detention, diversion, collaborative courts, and case dispositions.

The DA Accountability Table especially urges the DA to collect and publish data on:

- Charging decisions, disaggregated by:
 - Whether charges were filed or not filed, including enhancements
 - Charge level
 - Specific alleged offense(s), by penal code
 - Zip code of the alleged offense(s)
 - Custody status at the time of charge
 - Demographics of the individual, including age, race and ethnicity, gender, city/zip code of residence, housing status, employment status, and income
 - Outcomes of decline-to-charge policies (such as change in misdemeanor charges filed or case loads and cost-efficiency evaluations)
- Pre-trial detention, disaggregated by:
 - Charge decision (whether charges were filed or not filed)
 - Alleged offense(s)
 - Prosecutor's bail recommendation
 - Bail decision
 - Amount of bail set
 - Whether bail was posted
 - If released, terms of release
 - The start and end date of every period of pre-trial detention and the reason for that detention
 - Demographics, including age, race and ethnicity, gender, city/zip code, housing status, employment status, and income
- Diversion program availability and participation, disaggregated by program type, including:
 - Number of people offered diversion and the offense category
 - Number of people excluded from diversion and the offense category
 - Screening/referral decisions (agency or office making the referral, determining eligibility, and/or denying eligibility and whether DA opposed inclusion in diversion program and reason for opposition)
 - Eligibility and exclusion criteria, and progress toward expanding eligibility for pre-plea diversion
 - Diversion uptake and completion
 - Program requirements
 - Program capacity
 - Program providers and partners
 - Demographics of program participants including age, race and ethnicity, gender, city/zip code, housing status, employment status, and income

- Demographics of those excluded from diversion age, race and ethnicity, gender, city/zip code, housing status, employment status, and income.
- Case dispositions and sentences, disaggregated by
 - Charge level
 - Specific offense(s), by penal code
 - Plea entered
 - Plea bargain offered and terms of plea bargain
 - Sentence imposed by the court including any restitution, fines, and period of incarceration
 - Demographics, including age, race and ethnicity, gender, city/zip code, housing status, employment status, and income.
 - Progress toward ending the use of sentencing enhancements
- Collaborative courts participation, disaggregated by court and by:
 - Number of people eligible for collaborative courts
 - Number of people screened for/referred to collaborative courts
 - Screening/referral decisions (agency or office making the referral, determining eligibility, and/or denying eligibility and whether DA opposed inclusion in diversion program and reason for opposition)
 - Eligibility and exclusion criteria
 - Uptake and completion of services
 - Court program requirements
 - Court program capacity
 - Service providers and partners
 - Demographics of collaborative court participants including age, race and ethnicity, gender, city/zip code, housing status, employment status, and income
 - Demographics of those excluded from collaborative court services age, race and ethnicity, gender, city/zip code, housing status, employment status, and income.
- Resentencing and parole
 - Number of resentencing requests or petitions made to the DA
 - Number of resentencing referrals made by the DA
 - Number of resentencing requests or petitions denied by the DA, including reason(s) for denial
 - Any criteria, guidance, and policies regarding how the DA evaluates resentencing requests
 - Whether the DA engaged in any parole proceeding, the formal recommendation of the DA in that proceeding, and the outcome of that proceeding
- Juvenile court, including:
 - Charging decisions, including progress towards declining to charge youth for typical adolescent behaviors
 - Detention

- Dispositions
- Transfer hearings
- Demographics, including age, race and ethnicity, gender, city/zip code, housing status, employment status, and income
- Progress toward ending the transfer of youth to adult court
- Juvenile diversion, including:
 - Number of youth offered diversion
 - Number of youth excluded from diversion
 - Exclusion criteria
 - Diversion uptake and completion
 - Program requirements
 - Program capacity
 - Program providers and partners
 - Demographics of program participants including age, race and ethnicity, gender, city/zip code, housing status, employment status, and income
 - Demographics of those excluded from diversion age, race and ethnicity, gender, city/zip code, housing status, employment status, and income.
- District Attorney departmental budget