



## Criminal Justice Reform District Attorney Questionnaire

**District Attorney Name: Andy J. Watson**

*Questions are in italics.*

**DA responses are bolded.**

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### Cash Bail

*About 60 percent of county inmates in Pennsylvania are held pretrial<sup>[1]</sup>. A large portion of those people jailed pretrial are incarcerated because they can't afford cash bail<sup>[2]</sup>. Does your office routinely request monetary conditions of bail? In which percentage of cases does your office request cash bail?*

*What factors determine whether your office will ask for a monetary bail versus a nonmonetary bail?*

*Are risk assessment tools used in your county to make bail recommendations?*

**The District Attorney's Office does not routinely have the opportunity to request cash bail, as bail is routinely set for felonies and domestic related misdemeanors by the presiding District Magistrate once the arresting officer takes the suspect forthwith in front of the Magistrate. On cases where the suspect is not immediately arraigned and is required to appear by summons for bail and preliminary hearings, monetary bail is only requested where the suspect has a history of not**

**appearing for court they are deemed a danger to themselves, the victim, or the community, or if the individual has a significant prior criminal history. Ties to the community and whether they have any history of alcohol or drug abuse also determines whether my office asks for monetary or non-monetary bail. A very low percentage of cases fall into this category when they are not felonies or domestic related crimes. At the present time Potter County does not utilize risk assessment tools to make bail recommendations except for Potter County's Pretrial Diversionary Program.**

**This program is for non-violent offenders who suffer from drug or alcohol addiction that are incarcerated. They are evaluated through a two-step process, a drug and alcohol evaluation and the use of the Ohio Risk Assessment Tool to determine whether they are at a high risk to re-offend. Individuals that are found to be in need of treatment for drug and/or alcohol addiction and that are a low to moderate risk to reoffend can petition the court to be released from incarceration and be placed on pretrial interim supervision as long as they follow through with recommended treatment.**

**However, the Potter County District Attorney's Office does routinely file bail modifications for violations of the terms and conditions of bail if the person is released. At this stage, a high percentage of these individuals are reincarcerated.**

#### Prosecutorial Transparency

*It is important for prosecutors, as elected officials, to be transparent in their policies and practices. What kind of data does your office currently collect and make public?*

*Would you agree to make all policies of the district attorney publicly available on your office's website, including those regarding charging and plea-bargaining decisions? Would you further agree to post quarterly data regarding all critical decisions made by the district attorney's office, encompassing charging, pretrial recommendations, plea bargains and sentencing recommendations, including demographic information?*

*Does your office have an open-file discovery policy; does your office allow the defense full access to the prosecutor's file both pretrial and after conviction?*

**The Potter County District Attorney's Office maintains records concerning the status of each and every case and maintains the files for 7 years after the case is finalized. Information concerning each and every case concerning negotiated plea agreements and trial outcomes are made public record. The office maintains an open file policy and permits the defense full access to the files both pretrial and post-conviction. Anyone may contact the District Attorney's Office for information**

**on a case as long as it is a matter of public record and the Commonwealth has responded to several Right to Know requests over the years.**

### Mandatory Minimums

*In 2015, the Pennsylvania Supreme Court found most of Pennsylvania's mandatory minimum sentencing laws unconstitutional. There is a bill in the General Assembly that would reinstate the mandatory minimums invalidated by the court in 2015. Do you support bringing back those mandatory minimum sentencing laws? Why or why not?*

**I support the pending legislation to reinstate mandatory minimums for certain offenses due to the important deterrent effect that they have on would be offenders. However, the use of mandatory minimums should be properly balanced concerning each and every situation and individual, and used on a case by case basis. For instance, if there is a proven drug dealer that has been adversely affecting the community, and a mandatory minimum is available for that individual, it should be utilized. However, where an addict is used as a middle-man in a drug deal in exchange for being provided drugs, and perhaps has never had any treatment, the mandatory minimum may not be appropriate for that type of individual.**

### Police Accountability

*Some prosecutors keep a list of current and former police officers who have been determined to have a history of lying, racial bias, or brutality. Would you be willing to publicly produce a list of police officers for whom the District Attorney's Office (DAO) has evidence of dishonesty, excessive force, or racial bias?*

*What does your office do when you receive information that a police officer has engaged in criminal activity such as perjury, assault, or other unlawful conduct?*

**My office does not currently maintain a list of current or former police officers who have been determined to have a history of lying, racial bias, or brutality. Fortunately, in Potter County these issues are very rare. When my office does receive information that a police officer has engaged in unprofessional activity, an immediate referral is made to the Chief of Police or in the case of the State Police, the Sergeant of the barracks and , if necessary, a referral to the Attorney General's Office for an investigation. Again this has rarely, rarely occurred in Potter County.**

### Probation Detainers

*Does your office engage in the practice of asking judges to lodge a detainer against defendants for technical violations of probation?*

*Does your office request that detainers be lodged against defendants for direct violations of probation as a result of new charges?*

**The Potter County District Attorney's Office does not routinely engage in the practice of asking Judges to lodge detainers against Defendant's for Violations of Probation. Instead, the supervising probation officer files a Capias which is a type of warrant for the individual. If a probationer/parolee receives new charges, my office notifies probation and they make the decision to lodge a detainer.**

### Reentry

*What, if anything, can your office do, or is your office currently doing, to help those who are in reentry?*

*Do you think DAs around the state should play a role in assisting people who have served their time successfully reintegrate into society when they come home?*

**Upon sentencing, virtually every individual sentenced in Potter County is made reentry eligible, unless they receive a state prison sentence. My office supports the reentry program for certain individuals that need long term drug and alcohol treatment and/or have demonstrated good behavior while incarcerated. I do support the assertion that DA's around the State should play a role in assisting people who have served their time successfully and should reentry into society. The ultimate goal of every District Attorney should be to help reform and reintegrate people into the community once they have committed to engage in appropriate treatment and demonstrated remorse for their crimes. Incarceration is an important tool to be used as a deterrent and to reduce recidivism however, too much incarceration can be counterproductive to an offender's rehabilitation. Some individuals respond better to long term probation or parole along with appropriate drug and alcohol treatment.**

### Diversions Programs

*What kinds of diversionary programs are available in your county? Would you consider expanding these?*

*Do people using these programs have to pay to participate? If so, what is the amount?*

**Potter County currently utilizes DUI Treatment Court, Drug Treatment Court, a Pretrial Diversionary Program, various forms of Intermediate Punishment, Accelerated Rehabilitative Disposition (ARD) Program and the Potter County Women's Center. These diversionary programs usually have a very good success rate and I would consider expanding these programs, in cooperation with the President Judge of the County. The ARD Program has a fee of \$350.00 for DUIs and \$525.00 for non DUIs.**

### Opioid Crisis

*Do you support a public health-centered approach to substance use and addiction that emphasizes decriminalization and harm reduction, increases access to treatment, and does not involve prosecution for drug possession? If yes, what specific strategies do you currently use? What other strategies would you support, both inside and outside the criminal justice system, to implement that approach?*

**The Potter County District Attorney's Office is very strict and harsh on the prosecution on individuals that deliver opioids. Potter County utilizes a very active Drug Task Force operated through the Attorney General's Office to remove dangerous opioids from our streets. However, I have been very active in supporting our local Drug and Alcohol Treatment Court programs, acquiring medication take back boxes throughout the county, and created the C.L.E.A.N. Protocol to encourage individuals to report their addiction to law enforcement without the threat of prosecution. In other words, the C.L.E.A.N. Protocol has been established to encourage people to approach law enforcement officers to ask for help in their addiction, to surrender any drugs or paraphernalia on their persons, and in exchange they are immediately referred to appropriate drug and alcohol treatment instead of prosecution. I firmly believe that there is an important distinction between a drug dealer and a drug addict and every case needs to be evaluated carefully Drug dealers need to be subject to long term incarceration and addicts, usually benefitting from a short term of incarceration, need more treatment and support which our Treatment Courts and the C.L.E.A.N. Protocol provide.**

### Mental Health Treatment

*Do you support the idea of diverting defendants with mental health issues away from the criminal justice system and into treatment and support services in the community? What programs currently exist in your county?*

**I generally support the idea of diverting defendants with mental health issues from incarceration and getting them into treatment and support services in the community. However, where the individual has exhibited violent behavior, they need to remain incarcerated until appropriate alternative treatment and housing can be established for them. Protection of the community is of the utmost importance. Currently, Potter County is investigating alternative methods in dealing with individuals with significant mental health issues that are incarcerated through the US Smart Justice Initiative. Alternative methods of properly dealing with incarcerated individuals that suffer with serious mental health issues are being explored. Prompt contact with Potter County Human Services to provide these type of individuals with housing and mental health treatment is important, as are early psychological and competency evaluations to aid in processing the case faster to ensure the individual obtains the treatment they need.**

#### Mass Incarceration

*Pennsylvania has the highest rate of incarceration of any state in the Northeast.<sup>[3]</sup> Do you think that mass incarceration is a problem in the US? In Pennsylvania? If so, what do you think can be done?*

*What do you think are the causes of Pennsylvania's exceptionally high incarceration rate?*

**Mass incarceration is obviously a problem in the United States and in Pennsylvania. I believe the cause of the high incarceration rate is partially due to the opioid epidemic and the fact that Police Officers and State Troopers are aggressively doing their job. Possible solutions to the mass incarceration problem is to explore the utilization of treatment courts, pretrial diversionary programs, and greater utilization of County Intermediate Punishment sentences along with reentry programs.**

#### Racial Disparities

*Black men are almost nine times more likely to be incarcerated than white men in Pennsylvania are.<sup>[4]</sup> This is higher than the national average of six times. What do you think*

*accounts for this racial disparity in incarceration? What can your office do to help address this?*

**The Potter County District Attorney's Office does not take a position on what may account for a racial disparity in incarceration. Potter County is a very rural county made up of under 17,000 people. Minorities consist of a very small portion of the local community. However, to the extent that the ACLU maintains that African American are almost 9 times as likely to be incarcerated than caucasian men in Pennsylvania, which is higher than the national average by 6 times, I ensure the public that race plays no part in the ultimate outcome of a case. Each case is evaluated for a suspect's offense gravity score, prior record score, and the Pennsylvania Standard Sentencing Guidelines are utilized to obtain a range of sentence for every individual. Next, the facts of the case are evaluated for aggravating or mitigating circumstances. As always, I attempt to meet with every individual either at a preliminary hearing or at criminal conferences to determine whether they are remorseful and accountable for their actions. Every individual is treated the same regardless of their race.**

#### Immigrants and the Criminal Justice System

*Does your office take immigration status into consideration when making charging decisions, deciding to offer a plea bargain, or making sentencing recommendations? If so, how? Is this documented?*

*Are there circumstances under which your office shares information about defendants, victims, or witnesses with immigration authorities? What are those circumstances, and what information is shared?*

*Does your office have a position on immigration enforcement within or near courthouses? If so, what is that position?*

**Immigrant issues are rarely seen in Potter County. During my term as District Attorney for 9 years, I can only recall one case where Law Enforcement encountered an illegal immigrant. That individual's case was processed like any other case, however I did contact the INS who eventually came and apprehended the illegal immigrant after he was sentenced.**

#### Schools and Policing

*Does your office support and promote alternatives to arrest for school-related incidents in which there is no serious physical harm or threat to the school community? In such incidents, does your office discourage police from making these referrals?*

**The Potter County District Attorney's Office supports and promotes alternatives to arrest for school-related incidents where there is no serious harm or threat to the school or community. In cases where a student has allegedly made a threat or committed an assault against another student, we are very proactive in filing a Juvenile Allegation against the student and taking them before the Court for appropriate section. However, where the incidents are more minor in nature we encourage local schools to deal with the issue internally, if they so desire, to keep the juvenile out of the criminal justice system if possible.**

#### Life Without Parole

*There are more than 5,000 people in Pennsylvania currently serving sentences of life without parole (LWOP).<sup>[5]</sup> Pennsylvania is one of only six states that denies parole to lifers. Do you believe there are circumstances in which a person sentenced to life imprisonment should have the opportunity to be paroled? If so, in what circumstances do you believe that opportunity should be granted?*

*Would you support a change in the law allowing those sentenced to life to have an opportunity for parole?*

**In response to the question as to whether I believe there are circumstances in which a person sentenced to life imprisonment should have the opportunity to be paroled and, if so, what circumstances that opportunity should be granted, I respectfully have to respond in the negative as it pertains to adult offenders. Individuals sentenced to life without the possibility of parole are normally the result of murder, which is the most heinous crime.**

**The impact that this type of conduct has on the victim's family is unmeasurable. These type of individuals need to be removed from society in the interest of protecting the community. The likelihood of these type of offenders being rehabilitated in a state prison system is very low.**

**However, the Pennsylvania Legislature and Courts have already taken action to lity of parole for juveniles convicted of murder where their original sentence was life imprisonment without the possibility of parole. Potter County has one case**

**pending where a juvenile convicted of murder and sentenced to life without the possibility of parole, is pending a resentencing given this new law. This relatively new law has been justified by examining the immaturity of juvenile offenders and, due to their youth that many can be rehabilitated. There may be the rare case where juvenile offenders should be entitled to parole after many years of incarceration, however to date I have not encountered one of those cases.**

### Death Penalty

*Under what circumstances do you seek the death penalty? Do you use a set of criteria to determine whether or not you will pursue a death sentence?*

**The circumstances in which the death penalty will be sought, in accordance with the law, are in cases that where the individual has been convicted of First Degree Murder, Murder of a Law Enforcement Officer of the First Degree, or First Degree Murder of an Unborn Child, of Second Degree Murder, certain types of Arson, and other crimes as authorized under the sentencing code. The criteria used to determine whether or not a death sentence can be pursued is enumerated pursuant to 42 Pa.C.S.A. §9711 for cases involving murder. Important factors for the Commonwealth to consider are the age of the offender, their prior criminal history, and the impact of their crime upon the community.**

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[1] Prison Policy Initiative. (2017, May 31). *Era of Mass Expansion: Why State Officials Should Fight Jail Growth* [Press release]. Retrieved from <https://www.prisonpolicy.org/reports/jailovertime.html>

[2] The Council of State Governments, *Justice Reinvestment in Pennsylvania*, (2017) available at [https://csgjusticecenter.org/wp-content/uploads/2017/06/6.26.17\\_JR-in-Pennsylvania.pdf](https://csgjusticecenter.org/wp-content/uploads/2017/06/6.26.17_JR-in-Pennsylvania.pdf)

[3] The Council of State Governments, *Justice Reinvestment in Pennsylvania*, (2017) available. at [https://csgjusticecenter.org/wp-content/uploads/2017/06/6.26.17\\_JR-in-Pennsylvania.pdf](https://csgjusticecenter.org/wp-content/uploads/2017/06/6.26.17_JR-in-Pennsylvania.pdf)

[4] THE SENTENCING PROJECT: "[STATE-BY-STATE DATA](#)"

[5] Nellis, Ashley. "Still Life: America's Increasing Use of Life and Long-Term Sentences." *The Sentencing Project*, 3 May 2017, [www.sentencingproject.org/publications/still-life-americas-increasing-use-life-long-term-sentences/](http://www.sentencingproject.org/publications/still-life-americas-increasing-use-life-long-term-sentences/)