

DISTRICT ATTORNEY YOUTH JUSTICE VOTER GUIDE



SUFFOLK COUNTY GENERAL ELECTION 2018

WELCOME LETTER



Each year, thousands of young people in Massachusetts come in contact with the juvenile justice system. These young people are disproportionately children of color, children from the child welfare system, children coming from areas of concentrated poverty, and LGBTQ children. For the majority of these young people, interactions with the juvenile justice system are overwhelmingly negative, and lead to poor outcomes and even increased delinquency. Yet progress is made every day in reforming our juvenile justice system into one that is fair and works to create positive outcomes for all system-involved youth, creating stronger and safer communities for everyone.

District Attorneys play a major role in ensuring the success of juvenile justice system reform. Candidates for District Attorney have the opportunity to be a force for change and reform in the juvenile justice system. The following questions cover a range of youth justice issues especially relevant to Massachusetts voters. All registered candidates for District Attorney in Massachusetts have been sent the same questions, and all submitted answers are published here unedited.

This report was prepared by Citizens for Juvenile Justice, Greater Boston Legal Services, LGBTQ Legal Advocates & Defenders, The Home for Little Wanderers, I Have a Future, National Association of Social Workers - Massachusetts Chapter, Roca, and Strategies for Youth.

IMPORTANT DATES



General Election Voter Registration Deadline

Wednesday, October 17th, 2018

General Election

Tuesday, November 6th, 2018

REGISTERED CANDIDATES FOR SUFFOLK COUNTY DISTRICT ATTORNEY



**MICHAEL
MALONEY**
Independent
Reformer



**RACHAEL
ROLLINS**
Democratic
Party Nominee

YES/NO QUESTIONS



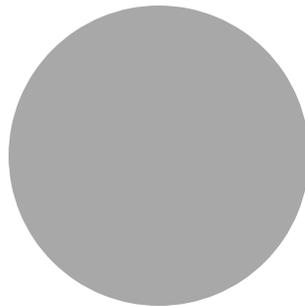
The following eight questions were presented to each of the candidates as yes/no questions. The answer key for the yes/no questions is:



**CANDIDATE
ANSWERED
"YES"**



**CANDIDATE
ANSWERED
"NO"**



**CANDIDATE
DECLINED
TO ANSWER**

RACIAL AND ETHNIC DISPARITIES



District Attorneys have a major gatekeeping role in who enters and who is excluded from the justice system. Most DA's have diversion programs for young people, but there is no information publicly available to show if these diversionary programs are offered fairly so they don't exacerbate racial and ethnic disparities. Would you commit to publicly releasing non-identifying prosecution and diversion data to address this gap in transparency?



**MICHAEL
MALONEY**



**RACHAEL
ROLLINS**



DATA COLLECTION AND TRANSPARENCY



Will you pledge to collect and publish statistical data (without disclosing personal identifying information), including race/ethnicity, gender identity and sexual orientation of defendants in felony and misdemeanor charging decisions, convictions, declinations to charge, and diversion program placements?



**MICHAEL
MALONEY**



**RACHAEL
ROLLINS**



DIVERSION PROGRAMS



Most District Attorneys divert young people charged with first-time offenses, or with low-level offenses. Research* indicates that diversion is less costly to taxpayers and more effective in reducing youth crime than prosecution in court, even for youth with more serious offenses. Will you commit to expanding formal diversion to community-based rehabilitation programs as an alternative to prosecution for these youths?



**MICHAEL
MALONEY**



**RACHAEL
ROLLINS**



RAISING THE AGE



In 2013, Massachusetts raised the age of juvenile court to keep 17-year-olds out of the adult system, excluding murder cases. Since then, juvenile crime has declined by 34%, and has seen faster declines in violent and property crime rates than the national average. Young adults ages 18 – 20 are highly amenable to rehabilitation, and keeping them in the juvenile system, where they must attend school and participate in rehabilitative programming will lower recidivism. Would you commit to support gradually raising the age of juvenile jurisdiction to include 18-, 19-, and 20-year-olds in order to ensure more young people mature as responsible and productive adults in our communities?



**MICHAEL
MALONEY**



**RACHAEL
ROLLINS**



CHILDREN STANDING TRIAL



Research on the competency of children has repeatedly found that children 11 to 13 years old “demonstrated significantly poorer understanding of trial matters, as well as poorer reasoning and recognition of the relevance of information for a legal defense, than did 14- and 15-year-olds.” Would you support a rebuttable presumption that children under age 14 are not competent to stand trial?



**MICHAEL
MALONEY**



**RACHAEL
ROLLINS**



PAROLE FOR JUVENILE OFFENDERS



Given the Supreme Court's recognition that juvenile offenders differ from their adult counterparts, would you support a rebuttable presumption of parole suitability for juvenile offenders?



**MICHAEL
MALONEY**



**RACHAEL
ROLLINS**



ENDING CASH BAIL



Very few young people charged with criminal offenses have any disposable income. As a result, they are presumed indigent by the courts. Those in the foster care system are rarely released pre-trial, and are disproportionately held in juvenile detention. Would you be in favor of ending cash bail for low-income and young people in foster care?



**MICHAEL
MALONEY**



**RACHAEL
ROLLINS**



COMMITMENT STATEMENT



Probation is the most common disposition for young people who are found to be “delinquent” in juvenile court. The Columbia Justice Lab recently released a statement* outlining five commitments aimed at reducing the number of people on probation and parole supervision. Signers of the statement would commit to reducing the reliance of probation/parole to those who truly require supervision; reducing the length of time someone is under supervision; reducing probation/parole fees; and re-investing cost savings to community-based supports for people under supervision. If (re-)elected, will you join leaders from across the country in signing on to this statement?



**MICHAEL
MALONEY**



**RACHAEL
ROLLINS**



NARRATIVE QUESTIONS



The following seven questions were presented to all candidates as narrative, or short answer, questions. Candidates were asked to keep their answers under 200 words, and their answers are published unedited in the format below. Answers to each question are spread across two to three pages.



CANDIDATE 1

Candidate's answer



CANDIDATE 2

Candidate's answer

DIVERSION DATA



District Attorneys have a major gatekeeping role in who enters and who is excluded from the justice system. Most DA's have diversion programs for young people, but there is no information available to show if these diversionary programs are offered fairly and whether they contribute to racial and ethnic disparities. How would you address this gap in transparency?



MICHAEL MALONEY

An overarching premise of my administration will be avoiding prosecution for non-violent drug cases. All diversionary programs will maintain statistics, that will be publicly available, regarding race and ethnicity of defendants utilizing these programs in lieu of prosecution.



RACHAEL ROLLINS

Currently, the SCDAO does not capture any of this type of data. Data collection and transparency are crucial to restoring the public's trust in the SCDAO. The ACLUM frequently states that Massachusetts has one of the lowest incarceration rates in the country, but our racial disparities within the incarcerated population are among the highest in the nation. It should be noted that with respect to diversion, "when" people are diverted matters. With pre-arraignment diversion, no criminal record is entered against the individual. With pre-trial diversion, a record has already been entered and the individual has a CORI. Under my administration, we will capture relevant data upon someone entering the criminal justice system, even if they are offered pre-arraignment diversion.

RACIAL AND ETHNIC DISPARITIES



While youth of color make up roughly 33% of the youth population in Massachusetts, they represent 60% of those arraigned. What steps will you take to collect data on and address racial disparities in charging decisions, bail recommendations, diversionary program placements and plea bargains?



MICHAEL MALONEY

I will incorporate the best practices of other US cities, particularly Philadelphia, for data collection techniques. I will also implement a civilian advisory board consisting of constituents from each of Suffolk's neighborhoods regarding best practices. Adjustments will be incorporated as necessary.



RACHAEL ROLLINS

Racial disparities are rampant throughout the entire criminal justice system. Even within the SCDAO there are significant racial disparities. Of the 150 ADAs in the office, 131 are white, 10 are African-American, 6 are Asian-American, and 4 are Latin-American – meaning that nearly 90% of the ADAs in the SCDAO are white. With respect to positions of leadership, the gender disparities within the SCDAO are equally staggering. These statistics and other troubling racial and gender-based disparities do not appear to be of concern to the current administration.

When I become DA, these issues will be addressed head-on, spoken about publicly and rectified. We will absolutely collect data regarding the following: bail requests, recommendations for diversion, reasons for any rejection of diversion, restorative justice alternatives, charging decisions, sentencing recommendations, initial plea bargain offers, and any requests for civil asset forfeiture proceedings.

DIVERSION PROGRAMS



In 2015, a federally funded District Attorney Diversion Assessment Study* identified changes needed to improve juvenile DA diversion practices: the collection of comprehensive data, including race/ethnicity, to measure program and youth outcomes; the use of standardized screening and assessment tools to distinguish between the risks and the service needs of youth to expand more opportunities for juvenile diversion; assigning dedicated diversion staff to offer intensive case management. Since the release of the assessment study, the Suffolk County District Attorney's office has created a formal juvenile diversion program in Boston Juvenile Court incorporating many of the assessment report recommendations. Please explain if and how you would expand, keep unchanged, change (either the model, or the catchment area), or eliminate the DA diversion program?



MICHAEL MALONEY

Diversionary programs will be expanded including qualifications for acceptance into the Valor Act for veterans and drug courts, which often overlap. Diversion programs are currently limited to juvenile court in Suffolk County. I will incorporate them in district court for the young adults.



RACHAEL ROLLINS

The JAR program represents a big step in the right direction, but still operates within a system where prosecution (measure in wins and losses) is the preferred tool of the office. In its first year, the JAR program served just 45 of the 965 documented juvenile offenders. Moreover, this program only targets mid-level juvenile offenders and leaves the majority of youth without recourse for diversion. There is no formal process for diversion of low-level offenses, which makes tracking racial disparities virtually impossible.

In my administration, one way we will measure community safety and success is by tracking how many juvenile offenders we divert and never hear from again. Right now, the SCDAO measures success by guilty verdicts and guilty pleas. I will make diversion programs the default option when juveniles come in contact with the criminal justice system.

Currently, individuals have to opt-in to the JAR program, I want people to have to opt-out (or be opted-out). I also support raising the juvenile age so that more youth can participate in these programs. The new criminal justice laws also now allows diversion in the District Court and BMC for offenders of any age.

*https://www.cfjj.org/s/MADiversion_FinalReport_2015-01-14-FINAL.PDF

SCHOOL-TO-PRISON PIPELINE



According to a study of school based arrests in Massachusetts' three largest school districts, most arrests of students are reflective of youthful misbehavior, and predominantly not public safety risks. Additionally, the study found that Black and Latino children and special needs children are more likely to be arrested for behavior for which their white peers would not be arrested for. How will you prevent your office from serving as an entry point for young people into the school-to-prison pipeline?



MICHAEL MALONEY

There is a direct correlation between elementary school graduation rates and subsequent incarceration rates. It's a travesty. All non-violent drug cases, including juveniles, will not be prosecuted. Defendants will be triaged prior to arraignment for treatment options over prosecution/incarceration.



RACHAEL ROLLINS

Again, another staggering racial disparity. What is encouraging is that the new criminal justice law speaks directly to ending the school to prison pipeline. Much of the problem with the school to prison pipeline starts with police (School Resource Officers) in the schools. They have been arresting students for non-criminal, administrative matters. The new criminal justice law specifically prohibits SROs from serving as school disciplinarians, as enforcers of school regulations or in place of licensed school psychologists, psychiatrists or counselors. Further, SROs are not permitted to use police powers to address traditional school discipline issues, including non-violent disruptive behavior.

These measures will significantly reduce the number of school arrests and hopefully reduce discipline up to any including expulsion. This will result in fewer cases coming from SROs to the SCDAO. When we are notified of any school based arrest, we will be thinking of diversion first and will be tracking data regarding the matter.

RECORD EXPUNGEMENT



The newly enacted criminal justice law creates some opportunities for the expungement of juvenile and criminal records created before the age of 21 (as long as their sentence is completed and they have not re-offended in 3 to 7 years) to ensure that young people are afforded the opportunity to develop into healthy and successful adults without being held back by a juvenile or criminal record, particularly when their record does not serve a public safety benefit. Research* has shown that individuals with a record who have not reoffended within three to four years are at no greater risk of offending than the general population. Yet these records can bar young people from housing, employment, college, and the military. The new law gives district attorneys the opportunity to object to a petition to expunge an otherwise eligible record. Under what circumstances would you object to expungement of records?



MICHAEL MALONEY

I fully support expungements. The collateral consequences associated with a minor record often have ripple effects throughout one's life. These individuals have been held accountable but should not bear the burden of an isolated incident for a lifetime.



RACHAEL ROLLINS

The legislature has already exempted the following categories of crimes from expungement: death or serious bodily injury; intent to cause death or serious injury; any offense committed while armed with a dangerous weapon; any offense against an elderly person; any offense against a disable person; and any sex offense. Although this is not an exhaustive list, these are precisely the types of crimes that I would be hesitant to expunge.

I believe that I would object to violent hate crimes being expunged from someone's record.

YOUNG ADULT RECIDIVISM



Young adults (18-25 years old) have the highest recidivism rates of any age group in the justice system. What reforms in the juvenile and the criminal legal systems do you support to improve outcomes for young people so they are better situated to mature into a more positive adulthood and with reduced recidivism?



MICHAEL MALONEY

The overwhelming majority of offenses committed by 18-25 year olds are for non-violent drug crimes. Alternative justice programs will be incorporated throughout the county. Harm Reduction Zones will be utilized and the Angel Program will be implemented, allowing addicts to seek treatment without fear of prosecution. Diversionary programs will also be expanded beyond juvenile court and made available to young adults in district court.



RACHAEL ROLLINS

As DA, I pledge to zealously advocate for raising the age of criminal adulthood to above 18 years old. I plan to significantly increase participation in diversion programs. I want to advocate for jobs for youth PRIOR to entering the criminal justice system. For young adults that have already come into contact with the criminal justice system, I will leverage my relationships and previous partnerships with local businesses, state agencies and community organizations to connect these youth with jobs and apprenticeships. I also commit to ensuring that all of the reforms mandated in the new criminal justice law -- like making sure that there are youth probation officers, that young adult units are created in the Houses of Correction (18-24 years old), that the task force on trauma informed juvenile care is created -- are fully implemented.

JUVENILE LIFE SENTENCE PAROLE ELIGIBILITY



The Massachusetts Parole Board has a reputation for granting a relatively low rate of parole. The DA plays an important role in parole hearings, including all juvenile lifer parole release hearings. Given the rulings for the Massachusetts Supreme Judicial Court and the US Supreme Court's ruling that juveniles are less culpable and have greater capacity for change, what factors would you consider when recommending or opposing parole? What steps will you take if the Parole Board continues to grant parole to only a small fraction of eligible juvenile lifers?



MICHAEL MALONEY

The propensity for violence is the primary variable in determining whether my administration would support or oppose one's parole eligibility. I will also implement a five-member task force charged with re-sentencing in cases where individuals were given unduly harsh punishments in non-violent cases. Sheriff Thompkins will be asked to serve as one of these members.



RACHAEL ROLLINS

In 2013, the Massachusetts SJC invalidated a law allowing the sentence of mandatory life without parole for juvenile homicide offenders. That ruling was retroactive and required that eligible offenders who had served a minimum of 15 years be afforded parole hearings. According to the latest available data, of the 63 individuals impacted by this ruling, 10 have been paroled, 1 was released after pleading guilty to a lesser charge when granted a new trial, and 20 have been denied parole. The remaining 32 individuals are either awaiting parole, have requested postponements, or have a release date provided that they meet certain requirements.

Because the law didn't change until 2013, none of these individuals were ever considered eligible for release. Accordingly, they were likely excluded from programs that would have significantly assisted in their rehabilitation. As DA, I would advocate that all prisoners be eligible for services provided behind the wall -- counseling services, batterers programs, parenting classes, financial literacy, restorative justice programs, anger management counseling, job training, and education services. When recommending or opposing parole, I will strongly consider the whether individuals have successfully completed any of these types of programs, and taken responsibility for their actions.

VOTER GUIDE PARTNERS

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Greater Boston Legal Services
CORI and Re-entry Project
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National Association of Social Workers - MA Chapter
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