

Why Smart Justice?

The United States locks up more of its people than any other nation. We have almost 5 percent of the world's population, but 23 percent of the world's prisoners. Delaware imprisons at a rate even higher than the extreme U.S. average—a rate that is 81 percent higher than New Jersey's.

The culture of maximum punishment was created and sustained in part because of the identity of its victims. African Americans are 22 percent of the population in Delaware, but they are 51 percent of prisoners. Ending the era of mass incarceration means dismantling the approaches that came to define criminal justice in the 1980s. Delaware chose mass incarceration. Delaware must now make a different choice. Each day that a person spends in prison unnecessarily is a social, fiscal and moral failing of our policy. We must do better.

Why focus on the attorney general?

The Delaware attorney general is our state's only elected prosecutor. Prosecutorial reform therefore must start with an attorney general dedicated to change. Prosecutors have a difficult and important job, and have a great deal of responsibility for the current state of our justice system. They have the power to:

- decide who to send to diversion programs, like drug treatment or mental health treatment, instead of prison
- reduce racial disparities in arrests, charging, sentencing and other areas using data analysis and charging and plea bargaining guidelines
- decide who gets charged, what the charges are, and—in most cases—how long a prison sentence they serve
- educate police officers on acceptable behavior and hold police accountable for misconduct

The Delaware attorney general also wields significant influence over legislation that affects criminal justice policy, from mandatory minimum sentences to the circumstances under which kids can be charged as adults.

Unfortunately, too many prosecutors measure their success based on convictions and cases processed. We need a different set of metrics for what success looks like, focused on the well-being of the communities most impacted by crime. If prosecutors use their power to promote better approaches, we could dramatically improve our criminal justice system.

Our Platform

Reduce Incarceration

The next Delaware attorney general must commit to reducing the number of people going to prison and eliminating racial disparities that affect who goes to prison and for how long. The attorney general must also recognize that public safety is best served by focusing on solving the problems that lead to crime rather than maximizing sentences after crimes have already occurred.

- *Expand use of alternatives to prison*

The attorney general is the gatekeeper to Delaware's criminal justice system. The attorney general and the professional prosecutors in the attorney general's office decide whether someone who is living with mental illness or a drug addiction will get access to treatment and rehabilitation, or whether they will instead be charged with a crime that is likely to result in jail time. The next Delaware attorney general must expand use of treatment and diversion, instructing deputies to refer more cases to diversion and advocating for wider eligibility. By targeting the underlying problems that lead to a crime in the first place, effective diversion programs can make Delaware safer and our justice system fairer.

- *Send fewer people to prison with shorter sentences*

Prosecutors helped lead us into our country's mass incarceration crisis, and we need them to help lead us out of it. The next Delaware attorney general must abandon the culture of locking up as many people as possible for as long as possible. They must replace it with a culture of fairness and seeking only the sentence necessary to deter crime. As the most influential law enforcement figure in the state, the attorney general must also commit to advocating for legislative changes that will fight mass incarceration.

- *End money bail*

Almost a quarter of people in prison in Delaware are there without having been convicted of any crime. They are detained until their trial because they cannot afford their money bail. Money bail punishes people for not having financial resources and causes people to lose jobs, housing, cars, medical care and even child custody. The next Delaware attorney general must use their power and influence to communicate the harms of the money bail system and the need for reform, and should instruct their deputies not to ask for money bail for misdemeanor or non-violent offenses.

Our Platform (cont...)

Fairness, Transparency, and Accountability

- *End racial bias and disparities in prosecution*

Across Delaware, there are too many people of color caught up in the criminal justice system. Our next attorney general must commit to ending racial disparities in prosecutorial decision-making. This will require tracking and publishing statistics about the decisions made by their office, including disparities in charging decisions (including decisions not to prosecute), bail recommendations, diversionary program placements, sentence recommendations and plea bargains.

- *Let the public judge your performance*

Too little information about prosecutors is made public. This lack of transparency prevents the Delaware community from knowing what decisions are being made or the outcomes of those decisions. Fully transparent practices and outcomes improve decision-making, allow the public to hold the attorney general accountable, and enable the public to push the attorney general in other areas in the future. In addition to publishing statistics about prosecutorial decisions, the attorney general should also pledge to publish policies regarding prosecution guidelines, police-involved incidents, bail recommendations, fines and fees, diversion programs, plea bargains, civil asset forfeiture and immigration considerations.

- *Listen to community needs*

Achieving safety and justice is a community-wide effort. The next Delaware attorney general should evaluate their success based on how satisfied the communities most impacted by crime are, not based on how many convictions they get or how long the sentences are. Listening to the community also means holding police and prosecutors responsible when they engage in misconduct.

Our Platform is Popular

The Smart Justice platform is supported by an overwhelming majority of likely voters. A national public opinion poll of likely voters, conducted by David Binder Research, obtained the views of a broad cross-section of participants—42 percent of participants identified as Republican, 41 percent as Democrat, and 17 percent as Independent. The poll found that across partisan self-identification and geographical regions, clear majorities support our goals.

Smart Justice Platform Issue: Ending Mass Incarceration

- Expand use of alternatives to prison
- Send fewer people to prison with shorter sentences
- End money bail

What the voters say:

- 89 percent of voters say it is important for their prosecutor to prioritize reducing our reliance on prison by using alternatives to prison, with 53 percent saying it is very important
- 68 percent are more likely to oppose a prosecutor who seeks the maximum sentence in every case
- 80 percent believe that it is very important to focus resources on preventing crimes from happening in the first place

Smart Justice Platform Issue: Racial Justice

- End racial bias and disparities in prosecution by tracking, analyzing and disclosing prosecutorial decisions at every stage of a case

What the voters say:

- 88 percent of voters are more likely to support a prosecutor who believes in reducing racial bias in the criminal justice system, and 70 percent say they are “much more” likely to support that candidate
- 91 percent believe it is important for a prosecutor to prioritize reducing unequal treatment of individuals because of race

Smart Justice Platform Issue: Transparency and Accountability

- Let the public judge your performance
- Hold police and prosecutors responsible when they engage in misconduct

What the voters say:

- 88 percent of voters are more likely to support a prosecutor who believes in making prosecutors’ decisions transparent by sharing data, information and policies with the public
- 79 percent of voters say they are much more likely to support a candidate for prosecutor who believes it is their responsibility to hold officers that break the law accountable and will work to increase overall transparency in the criminal justice system



Among Democrats, the electorate who will decide Delaware's attorney general primary, support for smart justice reforms was even stronger. These views are consistently expressed across U.S. regions and between urban and rural residents. A copy of the topline memo about this poll, explaining the poll's methodology, can be found here: aclu.org/fact-sheet/new-polling-voters-opinions-towards-prosecutors.

Our Plans

Voter Registration

We will activate our members and volunteers to register people to vote, focusing on the communities most impacted by prosecutorial decision-making. The Coalition for Smart Justice includes groups with professional community organizers and a wide network of volunteers. This is our number one priority.

Voter Education

We will educate Delawareans about the problems with Delaware's criminal justice system and the power of the attorney general to help solve them. We will do so with focus groups, social media, radio interviews, op-eds, and distributing educational materials. We will also ask candidates to take positions on the issues most important to smart justice voters, and let the voters know where the candidates stand on those issues.

Voter Mobilization

We will encourage smart justice voters to make it to the polls on Election Day. We want their voices heard in this election and every election going forward.