

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.

Our Platform

Reduce Incarceration

Members of the Delaware's General Assembly must commit to reducing the number of people going to prison and eliminating racial disparities. Lawmakers 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.

- ***Send fewer people to prison with shorter sentences***

While prosecutors have discretion to decide how criminal cases proceed, both prosecutors and judges must apply criminal laws as they are written. It is the General Assembly that is in the unique position to control how long people go to prison for when they violate the law, whether their sentence can be enhanced because of discrete factors like the location of the crime, and whether their sentences must run consecutively when they are convicted of two or more crimes in the same case. The General Assembly should repeal any laws that require prosecutors to charge statutory enhancements, repeal all mandatory minimums in the Delaware Code, and give judges the discretion to allow sentences to run concurrently rather than stack on top of each other.

- ***End money bail***

About 20 percent 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. Delaware's General Assembly must act to reform our bail system. Lawmakers have the ability to pass a constitutional amendment that will allow for the implementation of a fairer pre-trial system that will shift the focus from money bail to circumstantial bail standards. Bail reform is critical to ending Delaware's mass incarceration problem and General Assembly candidates must be committed to this effort.

- ***Expand the use of alternatives to prison***

Problem-solving courts, a form of diversion courts in Delaware, are accustomed to dealing with certain crimes and with individuals facing addiction or mental health issues. These courts save people from the disruption in their life that even a short prison sentence causes and target the underlying problems that lead to a crime in the first place. Right now, many diversion programs lack the funding to treat all the people that could qualify. The General Assembly should increase funding for such programs to make diversion programs available to more people. 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.

Fairness, Transparency, and Accountability

- ***End racial bias and disparities in prosecution***

Across Delaware, there are too many people of color caught up in our criminal justice system. Candidates must commit to ending racial disparities in the system. This will require tracking and publishing raw data and statistics about the decisions made by the Department of Justice. The General Assembly should pass a comprehensive data transparency law that requires the Department of Justice, Department of Correction and the Courts to publish raw data about Delaware's criminal system, including charging decisions, decisions not to prosecute, bail recommendations, diversionary program placements, sentence recommendations and plea bargains. This data is being collected by state agencies but is currently not released to the public. Only when we have access to the data will we truly be able to understand the drivers of mass incarceration in Delaware and advocate for appropriate policy change.

- ***Use your oversight powers to hold state agencies accountable***

As a lawmaker you are tasked not just with passing laws and controlling the budget, but also with conducting oversight of the many agencies you fund. The General Assembly should hold agencies accountable for running a criminal justice system that makes communities safer, saves money for the taxpayers, and treats everyone fairly regardless of race or income. Oversight

of the Department of Justice and the Department of Correction is critical because the culture within these departments and their policies and procedures have a significant impact on who goes to prison and how long they stay there. The public agrees—we need to reduce our reliance on prison. It is time that we start asking agency officials the tough questions.

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. While the poll focused on voter priorities for elected prosecutors, such as Attorney General and District Attorney candidates, we believe that the data serves as a strong indicator of voter sentiment for all elected offices with power to reform the criminal justice system.

Smart Justice Platform Issue: Ending Mass Incarceration

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

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 through Transparency

- End racial bias and disparities 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 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

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 the criminal justice system. 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 General Assembly 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.