

# Queens Community Group Candidate Questionnaire

## Candidate Jose L. Nieves for Queens District Attorney

### Goals

1. Why do you want to run for Queens County District Attorney?

As a young man of color growing up in this City in the 1980s and 90s, I saw how violent crime can tear apart families and communities. On the other hand, I also grew up being subjected to racial profiling by police and have seen how unfair police practices deteriorate the community's trust and confidence in the criminal justice system. I spent the last 18 years working in law enforcement reconciling the tension between these two realities. I believe that we can reconstruct our Criminal justice system to promote public safety while also respecting each individual's rights and dignity. In this extraordinary moment in history, in this election for Queens District Attorney, we have an opportunity to make fundamental policy and procedural changes in our criminal justice system. These changes will ensure fair and equal justice for all Queens residents. For many years, I have worked hard to advance criminal justice reform and bring a progressive agenda to law enforcement in New York. As Queens District Attorney, I will broaden the core function of the office to more than merely obtaining criminal convictions.

I am running for Queens County District Attorney because I want to redirect the focus of the Queens District Attorney's Office away from merely charging and incarcerating Queens residents in all criminal cases. Rather, I will focus the office's resources on diverting non-violent defendants away from the criminal justice system, engage in meaningful alternative to incarceration sentencing practices, carefully considering a defendant's collateral immigration consequences when negotiating plea agreements and identifying new ways to reduce the risk of recidivism of defendants by supporting a defendant's reentry and reintegration process into our community. My progressive view of criminal prosecution will allow me to focus the work of the approximately 300 prosecutors in the District Attorney's office on protecting all Queens families and residents by zealously prosecuting violent crimes, sexual assaults, domestic violence, hate crimes, human trafficking, public corruption, fraud and the illegal sale and distribution of guns and drugs in our communities. My progressive agenda as District Attorney will integrate the reconstruction of our Criminal justice system with the core prosecutorial functions of public safety and the pursuit of justice in society.

2. What is the central message of your campaign? I plan to bring real criminal justice reform and diversity to the Queens District Attorney's Office to ensure a more just, fair and equal criminal justice system for all Queens residents. The Queens District Attorney is entrusted with great power over individual's lives and that is why I will always be vigilant in

evaluating the criminal justice system to identify unfair practices and inequalities in the system. My legacy as District Attorney will be to restore the public's trust and confidence in our criminal justice system and build a bridge of communication between our communities and law enforcement.

3. What will distinguish you from other candidates? Unlike the other announced candidates in the race for Queens District Attorney, I am not a career politician or have been a member of the Queens Democratic power structure for decades. Everyone knows that a politician can't do a prosecutor's job. Gregory Lasak spent 25 years of his career promoting or being complacent with the status quo at the Queens DA's office and he didn't show a progressive view while on the bench. None of the announced candidates can credibly represent the progressive agenda for criminal justice reform. My aspiration to be the next Queens District Attorney is based in my commitment and dedication to real criminal justice reform that will restore our communities' trust and confidence in the criminal justice system. As a lifelong public servant and career prosecutor, I have practiced in multiple jurisdictions. I'm a dedicated community leader with a thorough understanding of the nuances of our criminal justice system and the internal intricacies of a prosecutor's role in our justice system. As a young man of color, I have a deeper understanding of the racial injustices of our criminal justice system and why a reconstruction of that system is necessary. I have not just started talking about changing the criminal justice system for next year's election. I have been doing the hard work of changing our criminal justice system for well over a decade, continue to do it today and will continue to work to bring about criminal justice reform tomorrow. I know and live the issues relating to criminal justice reform and I've been in the forefront fighting to make a difference. As a combat veteran, I served in Afghanistan and was tasked the rule of law mission. I have personally seen the negative consequences that arise when a society no longer has trust or confidence in its Justice system. So, I know how important it is for District Attorney to work with all our communities in Queens to build bridges of communication between the people and law enforcement.

4. What do you believe the mission of the DA's office should be and how do you intend to make that mission a reality?

The mission of the DA's office should be to promote public safety and justice in our community. In addition, it is incumbent upon any District Attorney in today's society to actively find way to reconstruct our criminal justice system to make it fair and find creative solutions that will disrupt the cycle of risk criminal recidivism. The District Attorney must also fulfill the core prosecutorial functions of criminal investigations and prosecutions of crime in Queens County. The effective execution of this mission will restore trust and confidence in our criminal justice system.

## Background

5. How long have you been practicing law?

I've been practicing as an attorney for over 17 years in the area of criminal and administrative investigations and prosecutions. I have prosecuted a wide range of matters in Federal court, State court, military tribunals and administrative courts. I have also served as an expert advisor in criminal justice advocacy and the administration of justice for judges, prosecutors, defense counsels and prison officials in Afghanistan.

6. Where have you been employed? Please see attached resume

7. What volunteer, advocacy, organizing, etc., activities have you engaged in beyond employment?

I have over 25 years of community organizing and volunteer experience. I was a founding member of the Cypress Hills Advocates For Education (CHAFE). CHAFE's mission is to advocate for educational empowerment and equality for children in poor and underserved communities. I also was the President of the Coalition to Reconstruct P.S. 76, a community group that advocated for the demolition of an abandoned and condemned NYC Department of Education school building that became a haven for violence, prostitution and illegal drug activity. We accomplished our goal to demolish the condemned school building and constructed a public park (George Walker Jr. Park) that now serves as a positive area where the community's children can thrive.

I also served as a board member and President of the Cypress Hills Local Development Corporation that provides youth programs, educational services, housing and other vital social services to poor and underserved communities. As a board member, I would often advocate for educational, economic and youth development resources to be provided to the most vulnerable in our society. In law school, I was the President of the Latino American Law Student's Association that advocated for more diversity in the legal profession. As a Queens resident, I also served as Cub Master of Cub Scout Pack #174 for several years. This organization sought to organize parents and school faculty to provide educational services to children that promoted environmental conservation, civic responsibility, honesty and strong work ethic.

For the last three years have served in leadership positions on the Parent Association of St. Kevin Catholic Academy, where I organized parents, students and faculty to promote community spirit and fellowship at the school, St. Kevin parish and the greater Flushing community. I also serve as a Director with the St. Kevin Catholic Church Youth Guild, where I organize parishioners, parents and young athletes to participate in the Diocese of Brooklyn Catholic Youth Organization Flag Football League. The mission of the Youth Guild

is to develop confidence, self-esteem, and sportsmanship through the sport of Flag Football, while promoting physical and moral character development to all participants. I am also an active member of the 4<sup>th</sup> Legal Support Organization JAG Association that seeks to organize veterans to support active duty military and veteran service members. Lastly, I'm a lifetime member of the Veterans of Foreign Wars Organization (VFW). The mission of the VFW is to foster camaraderie among United States veterans of overseas conflicts. To serve our veterans, the military and our communities and to advocate on behalf of all veterans.

### **Logistics**

8. How much money will you need to successfully compete in this race? What is your plan to raise it?

I plan to raise approximately \$1,000,000 to finance a competitive campaign for Queens District Attorney. I have a committee of 20 attorneys, and other professionals, that will both individually contribute financial to my campaign and use their network of friends and family to host fundraisers to collection political contributions. I will also use my network of friends, professional colleagues and family to solicit political contributions.

9. What endorsements do you have from elected officials, political organizations, unions and community leaders?

I have no official endorsements at this time. However, several political clubs and community groups have indicated to me that they will support my campaign.

10. What community organizations, networks, and individuals do you expect to draw on for support?

Communities United for Police Reform  
K Bain of 696 Build Queensbridge  
St. Kevin Catholic Academy Parent Association  
Cub Scout Pack # 174  
St. Kevin Catholic Church Youth Guild  
Veteran of Foreign Wars Organization  
4<sup>th</sup> Legal Support Organization JAG Organization  
Kings County District Attorney Alumni Association  
East Elmhurst and Corona Democratic Club  
North East Queens Democratic Club

## Prosecutorial Practice

Please explain your position beyond just “yes” or “no”

11. Currently the Queens DA is the only District Attorney’s office in the five boroughs that engages in a pre-indictment waiver policy. At arraignment, a person charged with a crime must waive their right to 180.80 release in order to engage in plea bargaining. If a person accused of a crime does not waive this right, the DA’s office will not plea bargain off the top count post-indictment. Will you commit to abolishing the Queens DA waiver policy on day one? [Y/N]

Yes. This is an absurd policy that only seeks to create inequality and undue coercion in our criminal justice system. Requiring a person to waive their constitutional due process rights before they had an opportunity to review any of the evidence against them and even before the prosecutor has considered any mitigating or extenuating circumstances or possible evidence that tends to exonerate the defendant is inherently unfair and wrong.

12. The Queens DA uses “Quinn Sheets” (named after DA Executive Jim Quinn) at arraignment when making offers. These sheets are printouts of a person’s sealed convictions. Based on these sheets, the DA will decline to dismiss or offer violations on negotiated pleas at arraignments and future court appearances. Will you commit to no longer using information in sealed records at arraignment and other court dates for plea bargaining purposes? [Y/N]

Yes, I will prohibit all prosecutors from considering the sealed arrest of any person accused of a pending criminal offense. Simply stated, information related to a sealed arrest will not be used in determining the disposition of a pending criminal case. These negative records are sealed for the purpose of preventing a negative consequence resulting from the sealed matter.

13. There currently is no stipulated discovery agreement in Queens for misdemeanor cases. Will you commit to an open file discovery system or discovery by stipulation as is currently practiced in Brooklyn and Staten Island on day one? [Y/N]

Yes, I served as an Assistant District Attorney in the Brooklyn District Attorney’s Office for over 11 years. During that tenure, I practiced open discovery in all misdemeanor cases and the majority of felony cases. I believe that the practice of open file discovery expedites the fair and reasonable evaluation of a criminal case by the prosecutor, defense and court. In addition, this level of transparency only promotes the administration of justice in our system. When practicing open file discovery, the only information that will be withheld is the contact information for witnesses and sometimes witness names when

there is a threat of violent and retaliation associated with the criminal matter; i.e. murder or gang related crimes etc....

14. How would your office treat cases where the defendant is eligible for Mental Health, Alcohol, Veterans Treatment Court, and Drug and Diversion Court?

Defendants that fall in one of the aforementioned categories will be given an opportunity seek professional treatment to address their general health or mental health issues in an effort to avoid a criminal conviction and incarceration. Through treatment courts, defendants are given a second chance to rehabilitate their lives and successfully reintegrate into our community. I personally believe that there are many ways to hold an individual accountable for misconduct without reverting to incarceration.

15. Will your office decline to prosecute so-called quality of life offenses including, but not limited to the following types of crime:

- Marijuana - Yes, As District Attorney, I will decline to prosecute all low level Criminal Possession of Marihuana charges, however, the illegal sale and distribution of marihuana may be prosecuted when such criminal activity threatens public safety.
- Fare Beats - Yes, I will decline to prosecute fare beats because prosecuting these types of quality of life crimes only serves to criminalize poverty and disadvantage the poor.
- Prostitution – Yes, I will divert these types of cases to programs that offer drug treatment, educational, housing and employment services. These individuals will be afforded other social services to address the underlying issues that caused that person to engage in prostitution.
- Massage parlors – I will prosecute massage parlors for wage theft and other related labor crimes.
- Airport Taxi - Yes, I will decline to prosecute Airport taxis because these types of offense are best resolved by civil enforcement and penalty, not by criminal prosecution.
- Unlicensed driving – Yes, the focus of the Queens County District Attorney’s Office must not be to saddle an otherwise productive member of society with a criminal record or harsh financial penalties for minor offenses. Rather, I will direct the 300 prosecutors to focus their attention and zealously prosecute

violent crimes, sexual assaults, domestic violence, hate crimes, human trafficking, public corruption, fraud and the illegal sale and distribution of guns and drugs in our communities.

- Petit Larceny/Shoplifting for amounts under \$250 – Yes, rather than prosecuting shoplifting under \$250, I will focus the resources of the Queens District Attorney’s office on prosecuting crimes that promote public safety and protect Queens’ families and residents.
- Trespassing – Yes as a general rule, unless the crime involves a Hate Crime or Domestic Violence. These types of cases must be dealt with differently because the threat they pose to public safety.

What other charges would your office decline to prosecute?

The determination whether to charge and prosecute a defendant for certain offenses under the New York Penal law is a very fact specific analysis that must consider factors that include, but are not limited to, the injury sustained by the victim, the criminal history of the defendant, the potential threat posed by the defendant to public safety and the severity of the crime.

That being said, as a general rule I will direct the prosecutors at the Queens District Attorney’s office to avoid prosecuting the following charges, unless they involve a hate crime or domestic violence: Trespass; misdemeanor level driving with a suspended license; possession of a forged instrument; disorderly conduct; low level shoplifting offenses; resisting arrest without any other corroborating criminal charge; misdemeanor criminal mischief in the fourth degree; criminal possession of drug paraphernalia; reckless endangerment of property; misdemeanor level unauthorized use of a vehicle. This is not an exhaustive list of charges that prosecutor may decline to prosecute under my administration as District Attorney, however, I have provided this list to show what types of cases that I do not believe should become the focus of prosecutors in the Queens District Attorney’s Office. All crimes relating to or involving hate crimes and domestic violence will be prosecuted in accordance with the law and my policies for criminal justice reform.

16. Will your office investigate the NYPD Vice Unit and call for an investigation into the practices of vice and to make public what undercover officers may and may not do when conducting a prostitution arrest?

As District Attorney, my office will investigate any allegation of abuse of authority or misconduct by any officer that rises to the level of a misdemeanor or felony. That includes, but is not limited to, the prosecution of any law enforcement officers for perjury,

false official statements, official misconduct, unjustifiable use of force or homicide and public corruption. Growing up in the 75<sup>th</sup> Precinct during the 80s and 90s, I personally witnessed how police misconduct and corruption can destroy the public's confidence and trust of law enforcement. It's only now that we know how officers from the 75<sup>th</sup> Precinct were engaged in violence and criminal activity to enforce their illegal drug dealing enterprise in the street of East New York and Cypress Hills.

Today, we learned that it is happening again within the NYPD Vice unit. I will make sure that the current indictments against members of the NYPD Vice Unit and 109<sup>th</sup> Precinct are prosecuted to fullest extent of the law. In addition, I will ensure that any further allegations made against any member of the NYPD Vice unit operating in Queens County is thoroughly investigated by the Queens District Attorney's Office Detective Squad. It is no surprise to me that the accused officers involved in this recent corruption scandal have accumulated multiple excessive force complaints and civil suits for violating individuals' constitutional rights. As District Attorney, I will investigate and prosecute officers that engage in any criminal activity.

17. How will your office handle cases in which a survivor of domestic violence is the defendant in a case where the criminal conduct alleged were related to acts of survival or self-defense?

There are no short and simple answers when handling cases that involve a survivor of domestic violence being charged with criminal offenses. First, the prosecutors, under my direction, will consider whether under the facts and circumstances of the case there exists a colorable defense of justification under the law. If the actions of the survivor of domestic violence can be qualified as justifiable under the law, then charges will not be filed against the domestic violence survivor. However, I understand that there may be many cases where the actions of the domestic violence survivor would not qualify as justifiable and lawful acts under the law. Those cases must be carefully handled with the goal of holding the survivor of domestic violence accountable in a way that protects their safety in the future, reduces the risk of recidivism and provides the necessary services to the domestic violence survivor to ensure their successful reintegration into society.

As a matter of practice, I will implement policies that direct prosecutors to communicate with defense counsels and work cooperatively to carefully screen and identify domestic violence survivors who have committed crimes that relate to acts of survival or self-defense. I will ensure that prosecutors assigned to the Domestic Violence Bureau are trained to understand the indicators and signs that a defendant is a domestic violence survivor and committed the charged offense as an act of survival or self-defense. Once a Defendant has been identified as a survivor of domestic violence and it has been determined that the charges against that individual stem from acts of survival or self-defense, the prosecutor will be directed to consider diversion programs and alternatives to incarceration sentence recommendations that offer the domestic violence survivor an

opportunity to rehabilitate their lives and reduce the risk of recidivism. My prosecutors will also be directed to carefully consider the potential negative impact of criminal orders of protection that may prohibit or interfere with the domestic violence survivor's ability to maintain a relationship with their children. If a survivor of domestic violence is convicted of an offense, through either a guilty plea or guilty verdict after trial, then my prosecutors will be directed to consider all the mitigating and extenuating circumstances of the crime and the domestic violence survivor's situation before making a sentence recommendation to the court. It is important that the Domestic Violence Bureau be staffed with highly trained prosecutors that can address issues of Battering and its Effects and Extreme Emotional Disturbance when assessing cases in this bureau. Once a domestic survivor completes their sentence, the District Attorney's Office will engage that individual to provide post-sentencing re-entry services to ensure that the defendant successfully reintegrates into our community and reduce the risk of recidivism.

18. What is your position on prosecuting sex workers? Will you decline to prosecute sex workrelated offenses, unlicensed massage charges and automatically vacate prostitution records for sex workers and trafficking survivors?

Sex work is the voluntary and consensual transaction where the parties engage in commercial sex. On the other hand, sex trafficking involves force, coercion, deceit and the victimization of women who involuntarily participate in commercial sex. Nevertheless, I believe that while sex workers enter this industry willingly, they too often eventually become victims of trafficking and violence. Much like my policy with drug addiction, I see diversion programs as the key component to handling cases that involve people who voluntarily place themselves in high-risk situations that quickly spiral out of control. I will work with the defense bar and the courts to divert defendants to programs that provide housing, employment, health care and other social services.

19. Probation/parole

- Will your office extend non-criminal offers that will not automatically lead to a violation of probation or parole where such offers would generally be made for non-probationers/parolees? [Y/N]

Yes – In my administration, a defendant's probation/parole status will not be an automatic bar against the possibility of a non-criminal offer. I will direct my prosecutors to consider other factors that include, but are not limited to, the injury sustained by the victim, the criminal history of the defendant, the potential threat posed by the defendant to public safety and the severity of the crime.

- Will your office decline to file Declaration of Delinquency notices on cases unless/until a person is convicted of a crime? [Y/N]

Yes – Under the law an arrest or even indictment is merely an accusation by the government alleging that a defendant had committed an offense. However, an arrest may violate the Defendant’s conditions for his probation. I will direct my prosecutors that when processing a declaration of delinquency notice, we will operate under the time-honored American legal principle that a person is innocent until proven guilty. These allegations of criminal misconduct by themselves should not deprive an individual currently on parole or probation of their liberty, without other evidence that the individual possesses a demonstrated threat to public safety. Therefore, I will direct my prosecutor to defer filing a declaration of delinquency notice against an alleged offender currently serving a sentence of parole or probation until that person is convicted of a crime. This will be the general rule, unless the prosecutor has credible information that the defendant is a demonstrated risk to the public.

20. Will your office be willing to offer pleas that have a less deleterious effect on a person’s immigration status?

Absolutely, I will implement an immigration hardship plea policy immediately after taking office as Queens District Attorney. This issue hits home for me because many of the people who are disadvantaged, marginalized and harmed by the current immigration neutral plea policy are from Latino and Hispanic heritage. The Queens District Attorney’s current policy that claims they “don’t take immigration consequences into consideration because they treat all people the same” is completely disingenuous. In addition, that policy ignores the fact that deportation and inadmissibility may result from a conviction of certain low-level crimes. That policy is not “treating everyone equally” because U.S. citizens do not face the threat deportation or inadmissibility if convicted of a low-level crime like residents with special immigration status or undocumented immigrants. The added punishment of being permanently torn away from your family, community and the life you have created in the United States as a consequence of being convicted of a low-level and non-violent crime is unacceptable. I will direct prosecutors to consider how various charges and plea offers could impact a defendant’s immigration status and evaluate alternative charges or plea offers that will hold the defendant accountable without jeopardizing the defendant’s immigration status and leaving them vulnerable to deportation or inadmissibility. In order to do this effectively, I will hire several immigration law attorney to advise prosecutor of all collateral immigration consequences that a person charged with a crime may face.

21. Will you request release on recognizance to the limits the law currently allows? [Y/N]

Yes, I would request release on recognizance for all misdemeanors and non-violent felonies when authorized under New York Criminal Procedure Law 510, 530, and other provisions of law relating to the specific kinds of criminal action and proceedings. Under my leadership, the Queens District Attorney's office will seek bail reform by reserving bail recommendations for defendants that demonstrate a high risk to public safety. Instead of cash bail recommendations, I will direct my prosecutors to recommend defendants be released with non-monetary conditions imposed such as reporting to a pre-trial services agency. If prosecutors determine that the defendant poses a risk to the public or that bail should be set for other reasons, then the defendant should be allowed the option to utilize an alternative form of bail such as unsecured or partially secured bail as provided by New York Criminal Procedure Law 520.10(1).

- Please explain any exceptions you would make and why you would make them. (Refer to specific statutorily defined criminal categories if possible and answer in terms of actual legal application wherever possible)

As District Attorney, I will allow prosecutors to recommend cash bail or other types of surety and appearance bonds when there is evidence that the defendant is a significant threat to public safety. This demonstrated risk will often, but not always, involve offenses relating to Domestic Violence, Hate Crimes, crimes involving serious violence or when a defendant commits a new crime of violence while out on pretrial release. The exceptions under my policy are driven by the Prosecutor's core function to protect the public from a potentially dangerous perpetrator.

- For the exceptions you have defined above, what sort of bail will you request and why?

As an alternative to cash bail or commercial bond, I will direct my prosecutors to recommend surety and appearance bonds, provided under New York Criminal Procedure Law 520.10 (1), to ensure that a criminal case proceeds expeditiously through the criminal justice system. Recommending surety and appearance bonds will allow the defendant to post either partially secured and unsecured bonds during the pendency of a criminal case. When courts grant a secured surety and appearance bond the Defendant may satisfy that bond with personal or real property. Alternatively, when the prosecutor recommends, and the court grants, a partially secured surety and appearance bond the defendant may secure that bond by a deposit of up to 10 percent of the total amount of the bond. Finally, if the prosecutor recommends and the court grants an unsecured surety and

appearance bond the defendant will not need to secure that bond by any cash or property (real or personal).

22. Will your office stop the practice of pre-arraignment CBQ interviews? [Y/N]

Yes, I will stop the current established practice of pre-arraignment Central Booking Queens Interview program conducted by members of the Queens District Attorney's office. When a prosecutor chooses to confront an unrepresented defendant regarding facts or circumstances leading to the crimes for which the defendant is charged, that prosecutor must strictly adhere to their obligations and limitations under the law, precedent and the Code of Professional Conduct. The Queens District Attorney's CBQ program has been repeatedly criticized by members of the Judiciary as being unfair, deceptive and inconsistent the spirit of due process under the law. See *People v. Ferreira*, *People v. Comery*, *People v. Perez*. One ethics expert opined that the Queens District Attorney CBQ Interview program intentionally "*misleads and deliberately induces the defendant to believe that there is an urgency to speak now when there is no advantage to him doing so prior to appointment of counsel. The conduct implies that there is a present advantage that will [be] unavailable at a later date. The detective and prosecutor know, but the defendant does not, that he will immediately secure counsel to provide independent advice as to whether and when he should provide information to the detective or the prosecutors. The prosecution knows that indigent defendants will not obtain counsel prior to the time of entry into the court's holding cell and that the interview process delays and circumvents the defendant's contact with counsel. In context, the fact that the defendant is read his Miranda rights at the end of the interview does not cure the misleading conduct.*" I have practiced as a career prosecutor in jurisdictions that included Federal court, military court, New York State Supreme court and administrative tribunals. It is obvious to me that the CBQ interview program is designed to solicit incriminating responses from an unrepresented defendant through coercive and high-pressured tactics. The CBQ interview program is not consistent with my view of fair and equal justice for all Queens residents.

23. What is your position on prosecuting protestors?

Nonviolent civil disobedience and lawfully organized protests or marches are a hall mark of our First Amendment right of free speech. Historically, significant movements such as the suffrage movement, civil rights movement, immigrant rights movement and LGBTQ rights movement have utilized protests to obtain fundamental rights for all residents of Queens county and greater New York. I will not prosecute non-violent protestors who are merely exercising their right to free speech without harming other Queens residents.

## Economic Justice

24. Real estate corruption and the affordable housing crisis in this city go hand in hand. What is your vision for the role the DA's office should play in this problem, and what specific actions would you take as first steps to get there?

I believe that the Economic Crimes Bureau can be an important part of the mission and work of the Queens District Attorney's office. I do not believe that the current focus of that bureau is consistent with my law enforcement priorities and criminal justice reform ideals.

As Queens District Attorney, I will direct the Economic Crimes Bureau to focus its investigations and prosecutions on crimes relating to deed theft, mortgage fraud and predatory mortgage lending. These types of deceptive and fraudulent conduct by corporations will be a priority in my administration. Specifically, I will direct the Economic Crimes Bureau to step up its investigations and prosecutions of deed fraud/theft by real property holding companies, real estate brokers, mortgage broker firms and land developers. I will focus on Deed Fraud/Theft because these criminal schemes are devastating to working class families and creates a public safety issue in our county.

25. Anti-union surveillance and threats of violence are unfortunately on the rise as tensions between labor and management grow in New York City industries like construction. How would your office deal with illegal infringement of the right of workers to organize in labor unions?

I am a firm supporter of Labor Unions and their mission to promote equity and fairness in the work place. I will have newly created Labor bureau focus carefully investigate any employer that may harass workers and illegally infringe on workers' right. Harassment and violence against union works exercising their right to organize will not be tolerated by my administration.

26. Crimes in the workplace like wage theft, harassment, and the intimidation of labor organizers often go unpunished. What do you think the DA's role should be in preventing those crimes, and what specific actions would you take as first steps to get there?

Wage theft is a pervasive problem in Queens County with numerous industries that include construction, nail salons, hotel and hospitality, day laborers and restaurant or food services. The New York Attorney General has lead the prosecutions of wage theft throughout New York. I will adapt the prosecutorial model of the New York State Attorney General's Labor Bureau to conduct investigations and prosecutions of wage theft in Queens. I will work with other stakeholders like the New York City Department of

Investigations and the New York State Department of Labor to identify the employers that engage in wage theft. The Queens District Attorney's Office will play a more active role in the Wage Theft Initiative. I will direct my prosecutors to step up their investigations and prosecutions of wage theft in Queens County.

I will actively engage and cooperate with community organizers that work with labor and immigrant communities to identify employers who engage in wage theft. I will host Wage Theft Clinics that will educate the community regarding worker's rights under the New York State wage and hour laws. We will host these clinics in churches, public libraries and community centers to maximize the outreach and effectiveness of our campaign. I will also include information on our District Attorney's Offices website regarding how to file a complaint of wage theft and violation of workers' rights.

27. Where do you see corruption in New York City, and would prosecuting corruption be a priority for your office?

Yes, corruption in Queens County is another pervasive problem that the Queens District Attorney's Office has left to Federal prosecutors and the New York State Attorney General's office to handle. That will stop when I am District Attorney. As a candidate outside the political structure of Queens, I will not be intimidated by, or persuaded to, ignore corruption in Queens County. I see the long list of corruption cases that arise from Queens prosecuted by other jurisdictions as a clear sign that the Queens County District Attorney's Office has not done enough to prosecute these crimes. I will revamp the Queens District Attorney's Public Integrity bureau to focus on prosecuting corruption cases. Public Officials in Queens County that use their positions to line their pockets with cash will be zealously prosecuted by my administration.

28. Would deceptive conduct and fraud by corporations be a priority in your office?

Yes, deceptive conduct and fraud by corporations will be a priority in my administration. Specifically, I will direct the Economic Crimes Bureau to step up its investigations and prosecutions of deed fraud/theft by real property holding companies, real estate brokers, mortgage broker firms and land developers. I will focus on Deed Fraud/Theft because these criminal schemes are devastating to working class families and creates a public safety issue in our county.

29. Bail bond companies have forged agreements, deceived family members, menaced and even kidnapped those out on bond. Beyond ending requests by your office for cash bail,- what would your office do to prevent it?

I believe that the commercial bail industry no longer serves a legitimate purpose in the newly Reconstructed Criminal Justice System that I will promote. I will respect the American legal maxim that a person is innocent until proven guilty in a court of law and not seek to

incarcerate non-violent persons as a form of punishment before that person has been convicted of any crime. The current bail practices of the Queens District Attorney's office frequently recommend bail in the majority of criminal cases. This practice inevitably and unnecessarily incarcerates people who are financially disadvantaged for no other reason than they are too poor to buy their freedom. This discriminatory and unfair practice subsidizes the commercial bail bond industry by funneling millions of dollars to commercial bail bondsmen. The financial gain alone is great incentive for the commercial bail bond industry to adapt abusive and fraudulent practices to optimize their profit margins. Consequently, persons accused of criminal offenses, and their families, are frequently forced into predatory and often illegal financial agreements. These agreements often include exorbitant premiums, high hidden fees, surveillance, and/or property loss, if assets are provided as collateral.

An alternative to commercial bail bonds may be that individuals charged with a crime can pay a bond deposit directly to the court, which would return that money in full if they are not convicted of a crime. The Court may charge a nominal administration fee to ensure that this program is self-funded.

As District Attorney I will direct my Economic Crimes Bureau to investigate, and when warranted prosecute, illegal fees and fraudulent schemes perpetrated by commercial bail bondsmen. My Economic Crimes Bureau will partner with the New York City Department of Consumer Affairs, Department of Investigations and the New York State Department of Financial Services to identify criminal misconduct by anyone in the commercial bail bond industry.

30. Would your DA's office decline to prosecute welfare fraud cases?

Yes, I believe the vast majority of welfare fraud cases should be handled through administrative and civil proceeding and not criminal prosecution. However, I would consider prosecuting cases involving the most egregious and repeat offenders when administrative and civil proceedings have failed to adequately address the misconduct.

31. The harm caused to communities by economic crimes can't be measured by dollar amount; stealing \$1,000 from a working-class person causes more harm than stealing \$10,000 from a millionaire. Would the Economic Crimes Bureau in your office commit to developing a holistic ways of estimating the harms to communities from economic crimes and subsequently prioritize prosecutions of those causing the greatest economic deprivation?

Yes, I will direct the Economic Crimes bureau to focus on investigating and prosecuting crimes that target working-class Queens residents such as credit card skimming, deed fraud/theft, wage theft, mortgage fraud and predatory mortgage lending. These crimes can devastate the lives of working-class Queens residents and I will make sure that the

Queens District Attorney investigates and prosecutes the perpetrators to the fullest extent of the law.

## **Legislative Advocacy**

Even though the District Attorney has no direct power to change the laws they are tasked with enforcing, they can still use their platform to advocate for laws that align with their vision and objectives

32. What is your position on closing Rikers Island?

I support closing Riker's Island because I've personally walked the tiers of many of Riker's detention facilities and know how dysfunctional the institution is. I've seen first-hand how Correction Officers; incarcerated persons and their families are subjected to environmental pollutants and a culture of violence in every detention facility on Riker's Island. I believe the only way to close Riker's Island is to decarcerate the vast majority of people in these facilities. This means the City and each County District Attorney's Office must do more to release as many non-violent incarcerated persons languishing at Riker's Island and other correctional facilities throughout the city.

Which of your initiatives would have the great impact on reducing the incarcerated population? Do you support the City's plan to open four new jails that contain a total of 5000+ beds?

- First, I will not allow the NYPD's quota system for low-level arrests and summons drive the work, and consume the resources, of the Queens District Attorney's Office. I will stop criminalizing poverty and drug addiction by declining to prosecute fare evasion, low-level marijuana possession cases and other non-violent minor offenses.
- As stated above, I will direct my Assistant District Attorneys to reserve bail recommendations for defendants that demonstrate a high risk to public safety. I will direct my prosecutors to consent to release on recognizance of defendants charged with misdemeanors and some non-violent felonies (authorized under New York Criminal Procedure Law 510, 530, and other provisions of law relating to the specific kinds of criminal action and proceedings)
- I will create an Alternative Sentencing unit to identify all possible Diversion programs that my prosecutors can use to diverting non-violent persons charged with low-level offenses, or persons who are first time offenders, away from the criminal justice system. My focus will be to adapt meaningful alternative to incarceration sentencing practices.

- As District Attorney, I will direct my prosecutors to prioritize the prosecution of all cases that involve an incarcerated person being held in pre-trial pending disposition of their criminal matter. I will not tolerate any practice that exploits the New York “Ready” rule to unnecessarily delay a criminal case. My office will operate on the social justice axiom that “Justice delayed is Justice denied.”
- I will direct my Assistant District Attorneys to carefully consider a defendant’s collateral immigration consequences when making bail recommendations and negotiating plea agreements.
- I will identify new ways to reduce the risk of recidivism of defendants by supporting a defendant’s reentry and reintegration process into our community after they are released from jail.

33. Would you commit to publishing a public plan for reducing the portion of the pre-trial population in NYC jails that comes from cases initiated in Queens?

Yes, I will publish a more comprehensive plan to reduce pre-trial detainee population and mass incarceration.

34. Do you support the creation of an Elected Civilian Review Board that can hold police accountable for misconduct?

Yes, I would support an elected Civilian Review Board to investigate police misconduct and advocate for police accountability. I have been working to hold police and correction officers accountable for misconduct throughout my career. In law school, I worked on the New York State Attorney General’s investigation into the stop and frisk practices of the NYPD. That investigation, conducted by the Civil Rights Bureau, proved that the NYPD was engaged in racial profiling and lay the groundwork for *Floyd v. City of New York* – the ground-breaking litigation that ended racial profiling by the NYPD and created the NYPD IG. I also investigated and prosecuted Correction Officers that engaged in excessive force against incarcerated persons at Riker’s Island and other correctional institutions throughout the city. Currently, as a Special Prosecutor I investigate and prosecute law enforcement officers that cause the death of an unarmed civilian throughout the State of New York. Therefore, my professional and personal experience shows that I have a demonstrated commitment to holding law enforcement accountable for misconduct.

35. Will you advocate for laws to reform the bail system?

Yes, as stated above I believe bail reform is a critical piece of the Criminal Justice reform movement. See my responses to questions 21, 30 and 32 for more information.

36. What legislative changes would you request and why?

I support Governor Cuomo's Criminal Justice reform policy because it encompasses many systematic changes that I believe in as a Prosecutor and Queens resident. Specifically, I support the Governor's proposed legislation that will eliminate monetary bail for people facing misdemeanor and non-violent felony charges. I agree with the legislation to expand the discovery process so that prosecutor and defense counsel will share information as early in the criminal justice process as possible. This liberal view of discovery is something that I have practiced for 18 years as a prosecutor, so I don't believe the new discovery legislation will hinder criminal prosecutions in Queens County.

### **Office Culture**

Reform will take more than just changing the rules. A criminal justice reform oriented District Attorney will face resistance from NYPD, elected officials and senior and junior staff within your own office.

37. Will you commit to removing ADAs who do not share your policy values and mission?

Yes, Prosecutors who do not professionally execute the policies that I set for the Queens District Attorney's Office, or who undermine the spirit of my criminal justice reform policies, will be asked to resign immediately or dismissed with cause.

38. A well-known progressive DA has been quoted as saying he sees the DA as "a public defender with power."

Larry Krasner's quote in New Yorker magazine referenced the current view of progressive prosecutors in a criminal justice system that is seeing a wave of criminal justice reforms. As District Attorney, I would actively seek out fellowship, guidance and collaborations with other progressive District Attorney like Larry Krasner, Rachel Rollins, Kim Ogg and Eric Gonzalez. I agree that all stakeholders in criminal justice system from the prosecutor to the defense counsel and the Judge should be focused on seeking justice and determining actual innocence or guilt of each person accused of a crime. DA Krasner's quote reminds me of a quote that I have fashioned by career after which is Charles Hamilton's quote "A lawyer is either a social engineer or he's a parasite on society... A social engineer is a highly trained, perceptive, sensitive lawyer who understands the constitution of the United States and know how to explore it's uses in the solving of problems of local communities and bettering conditions of the under privileged citizen." I have a more nuanced understanding of the criminal justice system than the other candidates and I will combine that expertise with my deeper understanding of racial disparities that exist in our criminal justice system that I have personally experienced

throughout my life living in New York City. This is what distinguishes me from all the other candidates for Queens District Attorney.

39. Will you commit to establishing an independent wrongful conviction unit to review prior convictions in Queens County?

Yes, I will establish a conviction review unit at the Queens District Attorney's Office. In addition, I will organize an advisory group of community leaders, organizers, retired judges, formerly incarcerated and exonerated persons and other stakeholders to better inform the mission and approach of that unit. Incorporating this type of grass roots committee will create transparency, trust and confidence in the unit and our criminal justice system. According to The National Registry of Exonerations, there have been 25 people that were prosecuted and convicted in Queens County from 1986 – 2011 that have been exonerated. I believe that a conviction review unit will play a critical role in preventing wrongful convictions from unjustly incarcerating otherwise innocent people. I believe that it is the affirmative duty of the District Attorney to scrutinize and thoroughly investigate convictions that have come into question because of new evidence or lack of credible evidence. My conviction review unit also will help restore public confidence and trust in the criminal justice system.

40. What will your office do about nepotism between the Queens DA's office and the Queens Judiciary? Will your office continue to employ District Attorneys who have parents, grandparents, godparents or any relative sitting on the bench in Queens Criminal Court?

Yes, the practice of nepotism and cronyism in Queens District Attorney's office will end when I'm District Attorney. These practices caused the current lack of diversity in the office and undermine the professionalism and credibility of the office.

- **If yes**, will you commit to establishing firm firewalls to ensure that these attorneys are not practicing in front of relatives or close family friends? Yes, I will direct my Legal Requirement bureau and Human Resources unit to create systematic measures to avoid perceived and actual conflict of interests created by the practice of nepotism and cronyism. In my administration, every newly hired, and current, ADA will be required to complete a conflict of interest screening form.
- **If yes**, will you publish a disclosure form on at least an annual basis that describes all potential conflicts between your ADAs and other actors in the system in Queens? Yes, once the Legal Recruitment Bureau, Diversity officer and Human Resource unit can formulate that information it will be released in the form of general statistics.

41. How will your office ensure that its racial and ethnic composition reflects the borough it represents, including at the executive level?

Absolutely, the increased diversity in my administration will start with me and continue to include a board base of diverse perspectives throughout the office. I will include persons of various races, religions, cultural backgrounds, genders and the LGBTQ community. In addition, I will recruit attorneys that come from a diverse social-economic background. For instance, when I became a prosecutor 18 years ago, my professional priorities and values were informed by my personal experience that included being raised in a migrant family, from very humble circumstances in one of the toughest neighborhoods in the City at a time when crime and corruption was on the rise. I believe my personal experience helped me develop the skills and knowledge necessary to be a strong prosecutor.

Will your office commit to requiring 80% of its District Attorneys to live in Queens by 2020?

Yes, my goal as the new Queens District Attorney will be to work toward requiring at least 80% of my Assistant District Attorneys to reside in Queens County by the year 2020.

42. Will your office commit to implicit bias trainings and ongoing professional development for all employees in areas of diversity, inclusion, and equity?

I have participated in implicit bias trainings and have been very impressed by the science and information provided by those trainings. As a Special Prosecutor and Manager with the Office of the New York State Attorney General, I coordinated implicit bias training and ongoing professional development of other prosecutors and investigators of the Special Investigations and Prosecutions Unit. I will do the same for all prosecutors and investigators employed by the Queens District Attorney's Office. This type of diversity, inclusion and equity training is now required for all Attorneys admitted to practice in the State of New York. In addition, I think implicit bias training is critical for all law enforcement officials who interact with the public either through investigations, preparation for trial, during the trial jury selection process and at trial.

43. What will your office's policy be for when employees are accused of ethical violations or misconduct?

I will take all allegations of ethical violation or misconduct against any employee of the Queens District Attorney's Office very seriously. Every allegation made to my office will be thoroughly investigated. If there is credible evidence that establishes, beyond a preponderance of evidence, that an employee engaged in unethical or illegal conduct; then I will immediately dismiss that person from the District Attorney's Office. Protecting the integrity of the District Attorney's Office and the criminal justice system will always be a top priority for my administration.

44. What role do you expect to play in the State District Attorney's Association?

As a progressive District Attorney, I expect that my role will be to educate other District Attorneys throughout the state regarding the value and importance of criminal justice reform issues and advocate for progressive ideals to be accepted by the membership of the District Attorney's Association of State of New York (DAASNY).

Do you have stances on the positions taken by the State District Attorneys Association that are relevant to this race?

Yes, I have taken the following stances regarding the stated positions of DAASNY

- I support the creation of a commission on prosecutorial conduct and stand in opposition to DAASNY's position that this commission is both unnecessary. I believe this commission is necessary to restore the public's trust and confidence in our criminal justice system. I believe that Prosecutorial accountability is critical to the integrity of our criminal justice system in New York.
- I support S8113, A10710 (Gallivan, Lentol) a bill to allow for the civil sealing of certain eligible offenses. This bill will allow persons convicted of an offense to have that conviction sealed after 10 years if that person engaged in no other criminal activity during that 10-year period.
- I support the changes recommended by DAASNY with regard to S6483A/A9042A – Amendment to Penal law with regard to the definition of switchblade and gravity knife. I believe it important to decriminalize the possession, transport or use, of gravity and switchblade knives by working class New Yorkers for a legitimate work-related purpose. DAASNY's recommended changes will help protect hard-working New Yorkers from being harassed or arrested for possession of or use of a tool they normally use for a legitimate work purpose. The recommended changes also seek to hold account those who possess those knives to engage in criminal activity that poses a risk to the public.
- I join with DAASNY, to support S.7470/A.10173, which creates the new offense of operating as a major firearms trafficker. I believe enhancing penalties for gun traffickers will protect Queens families and residence because it will stem the flow of illegal guns from being sold and distributed in our communities, which makes our communities safer.
- I also join with DAASNY in support of Senate Bill S430-A, A 2800 (Gallivan, Lentol) an Act to amend the Penal Law, in relation to an intentional act or continuing course of action that would cause serious physical harm to ten or more people upon school grounds. I think this legislation is an important step in protecting our

children, and school communities, from the horrible tragedy of a threatened mass shooting or vehicular attack. I have organized community forums regarding school shooting to help inform parents and community residence of the facts relating to this type of tragedy.

45. The NYPD union will loudly object to any progressive reforms this coalition seeks to introduce. How do you intend to deal with inevitable pushback from a police union?

The position that I will present to the police union is to put an emphasis on good order and discipline within the ranks of the NYPD to protect the integrity of the department and promote efficiency and effectiveness of law enforcement in this City.

As a combat veteran, I can relate to the mission, purpose and sacrifice of the service members of the NYPD. However, in the military we live by a clearly established set of values and a code that promotes integrity, honesty, justice and good order within the ranks of every unit. I believe that the vast majority of the 36,000 law enforcement officers of the NYPD do their job right and care about the doing the right thing. However, as with every organization, there are members of the department that will not do the right thing, not follow their obligations under the law or will abuse their authority. We cannot let those officers ruin the reputation and good work performed every day by the majority of service members of the NYPD. Holding these few bad actors in the department accountable will protect the integrity of the department and restore the trust and confidence of the public in law enforcement. The NYPD, as with all law enforcement agencies, must have the support and cooperation of the public to do its job. Anything that puts a strain on the trust and cooperation between the public and law enforcement must be dealt with swiftly and appropriately.

### **Accountability**

Transformative change will only come if the office operates transparently so that voters and organizers can whether the their demands are realized

46. Will you commit to making all policies of your office publicly available?

Yes, I believe transparency is the key to building trust and confidence in our government institution.

47. Will you commit to working with impacted community groups in policy-making?

Yes, I believe the best way to restore the public's trust and confidence in the criminal justice system is to include the impacted communities in the policy making process. One of my supporters is K Bain, of 696 Build Queensbridge, who organizes the community to reduce violence in Queensbridge. I've found his perspective on mass incarceration and

stemming violence in communities of color to invaluable. He is an example of how I will incorporate impacted community groups in my policy making process.

48. Will you hire a person, or team, to do data analysis for the office and produce public reports on things such as case dispositions and racial bias?

Yes, the District Attorney has an obligation to use their office's resources to continually evaluate the criminal justice system to identify unfair practices and inequalities that cause racial disparities. As the next Queens District Attorney, I will produce reports that illustrate trends in case dispositions and racial bias.

49. What will your community affairs team look like?

My community affairs team will be as diverse as the communities of Queens County. They will also be individuals with community organizing experience with issues relating to public safety and criminal justice reform. As with my Assistant District Attorney, my community affairs team will include a board base of diverse perspectives. I will include persons of various races, religions, cultural backgrounds, genders and the LGBTQ community. In addition, I will recruit community organizers and leaders that come from a diverse social-economic background.

50. Will you commit to doing quarterly town halls where the public can ask you questions about the office's direction?

Yes, I will have my community affairs unit coordinate public town hall meetings in every community in Queens.