

Durham for All 2018 Judicial Candidate Questionnaire

Thank you for taking the time to complete this questionnaire. Please return this completed form along with a brief statement describing your work history, community service, and prior political experience as soon as possible, but by July 31st. You can email your responses to Sendolo Diaminah at ajagunna@gmail.com.

Please note that following the July 31st deadline, Durham for All may publish all or part of your responses to this questionnaire and/or your statement of experience.

Pretrial Release

1. Do you believe that Durham County judges currently rely on secured bonds too heavily, not heavily enough, or approximately correctly in setting conditions of pretrial release?

I believe that secured bonds are relied on too heavily in setting conditions of pretrial release.

2. Do you believe that the current use of secured bonds disproportionately impacts the poor and people of color? If so, do you believe that a judge should adopt practices to ameliorate this result? What practices would be helpful?

The current use of secured bonds does disproportionately impact the poor and people of color because the amount set is usually too high for the poor and people of color to make. To help make the problem better, persons charged with non-violent offenses should be considered for written promises to appear or unsecured bonds. Minors should receive custody release to a parent or guardian who will ensure their appearance in court and their attendance in school while awaiting disposition of their case. A secured bond should be reserved for the most violent offenses and/or persons who pose a risk to the community, and who have demonstrated an extensive history of not appearing in court.

3. Do you believe the current jail population in Durham County is not large enough, larger than it needs to be, or about right?

The current jail population in Durham County is larger than it needs to be.

4. Do you believe that a bond schedule, in which specific charges correspond to a presumptive secured bond amount, is a tool judges should use in setting conditions of pretrial release? Why or why not? If you favor the use of a bond schedule, under what circumstances do you believe it should be followed or not followed?

A bond schedule in which a specific charge corresponds to a presumptive secured bond amount is not a tool that should be used in setting conditions of pretrial release. A predetermined secured bond schedule diminishes the possibility of the judge considering other relevant factors in setting appropriate conditions of pre-trial release, which may be an unsecured bond or written promise to appear.

5. What changes, if any, would you like to see in our local pretrial release policy? Do you believe that it is appropriate to presume release for all misdemeanors not involving domestic violence? What about low-level, non-violent felonies?

I would like to see our local pretrial release program automatically available for higher level felonies, where the defendant has no record or a minor record. An increase in the number of Pretrial Specialist would allow for more monitoring for more offenses.

To presume release for most misdemeanors would be appropriate, with the exception of those that involve domestic violence or where someone has suffered physical harm. An unsecured bond is appropriate to consider for non-violent felonies, with the exception of breaking and entering into occupied dwellings.

6. Would you support a policy in which judges re-set cases involving misdemeanors and Class H/I felonies with notice to the defendant, rather than issuing a warrant, upon a first missed court date?

I would support a policy in which judges re-set misdemeanors and class H/I felonies after the first missed court date. If a second court date is missed without good cause, a secured bond is appropriate.

7. What is your position on the Automated Notification System that sends text messages or phone calls to remind people of upcoming court dates? Do you believe it is effective or ineffective? Would you support the expansion of this program?

I personally have not had clients that utilized The Automated Notification System. Therefore, I am unable to say whether the system is effective or ineffective, or whether expansion of the program is appropriate.

A couple of my colleagues who clients used the system indicated that their client received inaccurate information. If the system provided accurate information, it may assist in reducing the amount of missed court dates. However, there may be a trust issue that could prevent use by defendants.

8. Under what circumstances do you believe that it is appropriate to set a cash-only bond as an alternative to a secured bond? Do you believe that bonds people should be utilized in all or most cases where a monetary condition is imposed to help assure an individual's presence in court? Why or why not?

A cash only bond is never appropriate, as an alternative to a secured bond. The purpose of bond is to assure one's presence in court, as well as protect the community. A cash only bond is punitive and would only increase the problem of pretrial mass incarceration.

Persons should have the option of utilizing a bondsman or posting bond directly with the clerk of court, through property or cash. Bondmen should be an option, but not the only option, for all cases because it is easier for most defendants and their family to obtain pretrial release with a bondsman when there is a secured bond. Also, when a bondsman is used, it can aid in keeping the community safe because there is another party who has an interest in being aware of the accused whereabouts and assuring the individual's presence in court.

9. Do you prefer the money bail systems in states such as Kentucky and Massachusetts, where money bail is posted directly with the clerk of court and returned when the case is resolved, or the manner in which secured bonds are generally handled in North Carolina, where individuals pay a non-refundable premium to a bondsman?

I would be open to reviewing the data to show the effectiveness of Kentucky and Massachusetts bail systems and how they are implemented. I believe it is inherently unfair for an accused person to pay a non-refundable premium, especially if the case is later dismissed or the accused is found not guilty. North Carolina should consider modifying our bond system to refund a part of the premium in these circumstances.

10. Do you support abolishing money bail? Why or why not?

I do not support the complete abolishment of money bail. In some instances, it is appropriate for the most violent offenders to protect the community.

11. Is it important for a judge to impose the least restrictive conditions of pretrial release possible to secure public safety, or are you more inclined to err on the side of imposing greater restrictions? Why or why not? How would you determine what conditions are necessary and appropriate?

A judge should impose appropriate conditions of pre-trial release to ensure the defendant's presence in court and to secure public safety. The facts and circumstances of each case should be analyzed with this purpose in mind. As a judge, I would consider the following in determining what pretrial conditions are appropriate and necessary:

- (1) The age of the accused*
- (2) The nature of the offense charged*
- (3) The weight of the evidence against the accused*
- (4) Whether the release of the accused would pose a risk to community*
- (5) The ties of the accused to the community*
- (6) The ability of the accused to make bond*

- (7) The presence of any mental health or substance abuse issues*
(8) Evidence to support or refute that the accused is a flight risk
(9) Whether the accused has a significant history of failing to appear for court.

Sentencing

1. Some commentators have argued that there is a problem of mass incarceration in the country generally and in North Carolina specifically. Do you agree or disagree? Why?

There is a problem of mass incarceration. The mass incarceration in North Carolina is the result of a secured bond being considered as the first choice for non-violent offenses, rather than written promises to appear or unsecured bonds.

2. If you believe that the level of post-sentencing incarceration is too high, have the practices of Durham County judges contributed to this problem? If so, what would be different about your policies and practices? What role do you believe judges can or should play in rolling back incarceration levels?

Although the post-sentencing incarceration may be too high, I don't believe that the practices of Durham County Judges have contributed to the problem. A judge can or should consider all alternatives to post-sentencing incarceration. Incarceration should be the last resort.

3. Do you believe that individuals in Durham County are being punished too harshly as habitual offenders? Why or why not? If so, under what circumstances?

I believe that individuals are being punished too harshly as a habitual offender when the offenses used to acquire the status of habitual felon are decades old, or the current offense charge will expose the accused to a substantial amount of time if convicted. I also believe that the threat of being punished as a habitual felon is used too often to force guilty pleas.

4. Do you believe that there are particular types of offenses or individuals in Durham County that are generally punished too severely or too leniently? Which offenses or which individuals and why?

The offense in Durham County that I feel may be punished too severely is the Failure to Register as a Sex Offender, when the failure to comply is the result of homelessness or the inability to find appropriate housing that satisfies the conditions of the Sex Offender Registry. Registration is necessary to keep the community safe. However, there needs to be appropriate housing available for the offenders to comply.

5. How important do you believe mitigating factors are in determining an appropriate sentence? Are there particular mitigating factors that you believe are important to consider? If so, which ones? How should these factors be weighed against the nature of the offense itself?

Mitigating factors are very important in determining an appropriate sentence. All of the mitigating factors are important to consider. Some mitigating factors may be more relevant than others, depending on the individual circumstances of each case. The weight to be given any mitigating factor under consideration depends on the prevalence of the factor during the commission of the offense.

Fines & Fees

1. Do you believe that judges should assess a defendant's ability to pay before setting a fine or fee? What is your opinion of the policy [adopted](#) by District Court judges in Mecklenburg County, where the judge waives court costs if a defendant meets a standardized threshold of indigency?

Yes, judges should assess the defendant's ability to pay before setting fines or fees. The policy adopted by Mecklenburg County District Court Judges appears to be appropriate. As a judge, I will consider all issues regarding the defendant's ability to pay before setting fines or fees.

2. Should a judge consider whether a person presently has the ability to pay a purge, or is able to take reasonable measures in the immediate future to do so, before incarcerating that individual for civil contempt? Do you believe that a court should require an individual to ask relatives or others who have no legal obligation to pay the individual's debts to meet a required payment schedule? Why or why not?

Yes, a judge should consider whether a person has the ability to pay a purge payment or is able to take reasonable measures in the immediate future to do so, before incarcerating the person for civil contempt. An individual should not be required by the court to ask relatives or others, to pay his/her debt because it is not their legal obligation.

3. In what types of circumstances, if ever, is it appropriate to impose jail fees? Does it vary according to the type of crime, the financial circumstances of the defendant, or any other factors?

Imposition of jail fees accrued while awaiting disposition of one's case is not appropriate. All basic necessities should be provided by the county, to include a safe environment, medical treatment, a healthy diet, and the ability to communicate free with family members.

4. Are you aware of whether or not the current judicial system collects more money through costs and fees than is necessary for its reasonable overhead? If it does, do you think that this method of general fundraising is a problem, or do you believe it is appropriate for the State government to cover other costs through this funding source? If you do believe it is inappropriate for the State to raise general funds in this manner, should a judge adopt practices and policies to ameliorate the problem? Finally, do you believe that it is appropriate for costs and fees to cover overhead for the judicial system, or are such legal financial obligations more properly classified as fines, in that they constitute punishment?

The current judicial system collects more money than is reasonably necessary. This method of general fundraising on the backs of the poor is inappropriate. Therefore, judges should really assess the defendant's ability to pay before imposing costs and fines.

Cost and fees imposed to cover overhead of the judicial system are excessive.

Probation Responses

1. What do you believe are the appropriate sets of responses for a positive drug screen for marijuana while an individual is on supervised probation?

An appropriate response for a positive drug screen for marijuana would be out patient substance abuse treatment.

2. Do you believe Durham County probation officers are making appropriate use of 2-3 day punishments in the county jail (“dips” under the Justice Reinvestment Act)? Should they be used more or less and why?

Due to the types of cases that I am assigned, I rarely receive a probation violation that is not attached to a new pending charge. Therefore, I do not have a basis to determine if probation officers are using “dips” appropriately.

3. In your opinion, what is the best manner to handle technical violations of probation (those not involving formal charges for a new offense)? What should a judge try to accomplish in choosing from an array of possible responses?

A judge should try to accomplish punishment and rehabilitation by choosing from an array of possible responses for technical violations of probation. Therefore, penalties like community service, out-patient drug treatment, specified curfew, or electronic monitoring should be considered as a response to a technical violation. Incarceration should be the last resort.

Diversion

1. Do you believe that is it appropriate to impose monetary conditions in connection with participation in a diversion program? Why or why not?

It is not appropriate to impose monetary conditions in connection with participation with a diversion program. The opportunity to avoid the long lasting effect of involvement in the criminal justice system should not be based on one's ability to pay, but rather on the willingness of the accused to be rehabilitated and reformed.

2. What is the appropriate response to an individual who is unable to pay for the drug treatment required by the terms of his or her supervision?

If an individual is unable to pay for drug treatment required by the terms of his/her supervision, a drug treatment alternative like Narcotics Anonymous, Alcohol Drug Abuse Treatment Center (ADATC), Carolina Outreach, Freedom House, Drug Treatment Court, Mental Health Court, or counseling by a drug counselor through a church or other non-profit should be allowed to satisfy the obligation. Fees could be waived as long as the defendant is compliant with treatment.

3. What is the appropriate response where a supervised individual is unable to pay the community service fee of \$250 but completes the requisite community service?

Where an individual has completed the requisite community service but is unable to pay the fee, the fee should be waived if the amount owe is not restitution to the victim. If the amount owed is restitution to a victim, an alternative may be imposing additional community service hours in lieu of monies owed with the consent of the victim, or a civil judgment.

4. Do you believe that an individual should get the benefit of a deferral or conditional discharge where the individual has complied with all requirements of the program other than those that require money, and the individual does not have the ability to pay the amount required? Why or why not?

Yes, an individual should get the benefit of a deferral or conditional discharge where the individual has complied with all requirements of the program other than monetary conditions. One of the purposes of

sentencing is to restore the defendant to the community as a lawful citizen. The inability to pay money should not be an obstacle to that goal.

5. Do you believe that the current age limitation on Durham's pre-charge diversion program (only individuals between the ages of 16 and 21 are eligible) should be expanded or abolished? Why or why not?

I believe that the age limitation on Durham's pre-charge diversion program should be expanded. Individuals have not reached full maturity by age twenty-one. Pre-charge diversion should be an option for people who may be older than twenty-one when mental health or substance abuse issues result in the individual's involvement with the criminal justice system. These persons also deserve the opportunity to minimize the impact of a bad decision.

6. Do you believe Durham's pre-charge diversion program, which is limited to misdemeanors (not including traffic, gun, or sexual offenses), should be expanded to include other types of offenses? If so, which ones?

Durham's pre-charge diversion program should be expanded to include the misdemeanor of sexual battery, where both parties involved are teenagers, who may have been involved in inappropriate teenage behavior (i.e., a boy or girl touching another without permission). This type of sexual battery should be included to prevent the consequences of a child having to register for thirty (30) years as a sex offender. The program should also be expanded to include low level, non-violent felonies that were committed as a result of mental health or substance abuse issues for first time offenders.

7. Should pre-charge diversion be available to individuals with some prior criminal history, or only those with no record of convictions or arrests? Why or why not?

Pre-charge diversion should be available to individuals with some prior criminal history, provided that the current offense is non-violent and has not been committed by the individual before.

Mental Health and Substance Abuse

1. As a general matter, are there any criminal charges that you believe should be treated as primarily public health concerns rather than criminal justice concerns? Why or why not? Which charges and/or individual circumstances do you believe should be considered or addressed differently than they currently are? What changes would you make to the way that drug possession and drug distribution charges are handled in our criminal courts?

Drug charges involving the possession of controlled substances that are clearly for personal use rather than for sale, should be treated as a public health concern and not criminalized. Street drugs are often used to self-medicate medical issues that the user cannot otherwise afford the appropriate medical treatment. Changes to how drug possession and drug distribution charges are handled by the criminal courts would have to occur legislatively. I would like to be part of the discussion to address this issue.

2. Do you believe our county's use of mental health and drug treatment courts should be expanded? Why or why not?

Our mental health and drug treatment courts should be expanded to include any offense, with the exception of sex offenses, where the criminal conduct was motivated by mental health or substance abuse issues. Treatment of these issues by intensive outpatient options could aid in the reduction of persons incarcerated for crimes that were the result of mental health or substance abuse.

Juvenile Justice

1. Should cases involving 16- and 17-year-olds be handled differently than adult cases prior to "Raise the Age" going into effect December 1, 2019? If so, how?

Cases involving sixteen(16) and seventeen(17) year olds should be handled in a way that minimizes the impact of the crime on the juvenile, and his/her ability to become a productive member of society. Therefore, all alternatives to incarceration and permanent conviction should be explored extensively. Incarceration should be the absolute last resort.

2. Should a judge take any steps to give meaning to this law prior to the effective date? Why or why not? If so, how?

A judge should take any steps possible within his/her discretion to minimize the impact of the criminal justice system on sixteen(16) year old and seventeen(17) year old juveniles appearing in court prior to the law taking effect. For example, where possible, all alternatives to incarceration should be exhausted.

3. In sentencing individuals under the age of 25, do you believe recent studies in neuroscience showing that individuals do not reach full maturity with regards to rational decision-making and emotional development until their mid-twenties are relevant to the choice of sentence? Why or why not? If you do, how would you use this science in selecting an appropriate sentence?

Currently, the age of the defendant, maturity level of the defendant, or the limited mental capacity of the defendant at the time of commission of the offense is a mitigation factor that a judge can consider when imposing judgment. Therefore, if such evidence is presented in cases before me, I will give the evidence appropriate consideration.

Immigration

1. A key issue in the recent primary race for Durham County Sheriff was whether to honor ICE detainers at the County jail. Candidate Clarence Birkhead stated that he would not honor ICE detainers in the absence of a judicial warrant, [stating](#) there was “nothing in the federal law that says I must participate.” What is your position on the legality of holding individuals pursuant to an administrative warrant signed by an immigration officer rather than by a judicial official?

Requests to hold an individual in custody beyond the disposition of the individual’s case should be based on the authority of a judicial official.

Public Support for Criminal Justice Policy Change

1. Would you commit to being part of a multi-agency group of public officials tasked with designing coordinated policies for dismantling mass incarceration and racial inequities in Durham's criminal justice system?

If allowed to do so under the Judicial Code of Conduct and the Rules of Professional Responsibility, I would be willing to be a part of a multi-agency group tasked with designing coordinated policies for dismantling mass incarceration and racial inequities in Durham's criminal justice system.

2. Chief Justice Martin recently gave public voice to his support for Raise the Age legislation. Do you believe it is appropriate for District or Superior Court judges to similarly voice support for legislation affecting the criminal justice system? If so, what changes to our current criminal justice laws would you publicly support?

It is appropriate for District or Superior Court Judges to voice support for legislation affecting the criminal justice system, since they have more first-hand knowledge of the issues. Currently the issue most important to me is Raise the Age Legislation because our youth are criminalized as adults too early. For the current legislation to have a real impact, other changes need to be made regarding transfer proceedings in juvenile court.

3. Would you publicly support the bill recently introduced to decriminalize possession of less than four ounces of marijuana?

If allowed to do so under the Judicial Code of Conduct and the Rules of Professional Responsibility, I would support legislation to decriminalize possession of less than four ounces of marijuana where the possession is clearly for personal use and not for sale.

Other

1. Is there anything else you would like to tell us about you that you believe makes your candidacy unique?

I am a first generation college graduate who was raised in rural Washington County by my grandparents. My grandfather was a laborer for Weyerhaeuser, and my grandmother worked as a seasonal farm worker and housekeeper until her retirement. I understand the effects that racial bias and economic disparity have on the administration of justice in this state. I believe that one of the roles of a judge is to ensure that those biases do not affect a person's ability to receive equitable justice in the court.

Additionally, I have been an Assistant Public Defender for nineteen (19) years. Many of the issues currently on the horizon of criminal justice reform, have been issues that I have fought for consistently in my career. Therefore, I have the knowledge base and the experience to know what can be properly implemented under our current laws to realize the change desired and needed.