



# 18th Judicial District

(Arapahoe, Douglas, Elbert, and Lincoln Counties)

## District Attorney Candidate

### 2020 Voter Guide

### Mark Your Calendars!

**Election Day: Tuesday, November 3**

**Register to Vote:** Visit the Colorado Secretary of State's election website, [GoVoteColorado.com](https://www.GoVoteColorado.com), to register online, [verify your registration](#), and update your information.

**In Colorado, you can register and vote on the same day, including Election Day, at any Voter Service and Polling Center.**

*You must be registered by October 26, 2020 to receive a ballot in the mail.*

**Vote in Person:** Beginning October 26, voters can vote in person at any Voter Service and Polling Center (VSPC). On Election Day, VSPCs will be open 7 a.m.-7 p.m.

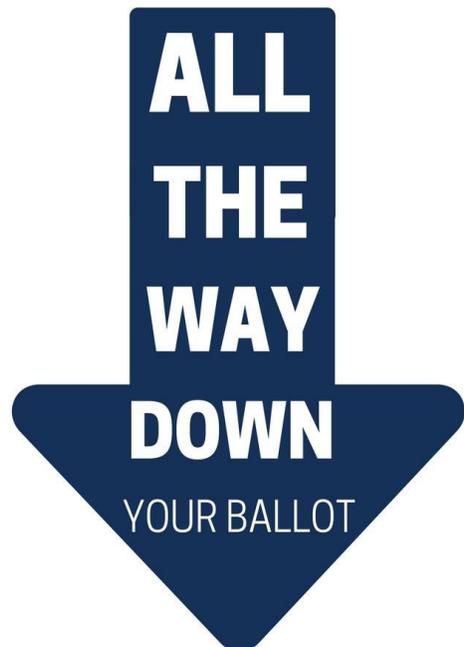
[Find your county clerk's website for VSPC locations and other local election information.](#)

**Vote by Mail:** Beginning October 9, ballots will be mailed to every active registered voter in Colorado. Please fill out your ballot, remember to sign it, and mail it back as quickly as possible to ensure it arrives by November 3 at 7 p.m.

### MAKE YOUR VOTE COUNT



*Be Sure To Vote*



District attorneys prosecute state crimes, decide which charges are filed, and have the power to dismiss charges or divert people to treatment or other programs. They are also highly influential in state and local politics. In Colorado, DAs are elected in each of the state’s 22 judicial districts, all of which will be holding elections in 2020.

Founded in 2020, CCJRC4Action is a nonprofit organization dedicated to advancing electoral and policy strategies aimed at eliminating the overuse of the criminal justice system and advancing racial justice in Colorado. We engage in public education, policy advocacy, promoting prosecutorial accountability, and building political power in communities most impacted by crime, mass incarceration and over-criminalization.

CCJRC4Action is the 501(c)(4) affiliate of the Colorado Criminal Justice Reform Coalition, a 501(c)(3) nonprofit organization founded in 1999.

CCJRC4Action initiated its KNOW YOUR DA campaign to help voters be more educated about DA candidates around the state. This campaign will continue to educate the public for each District Attorney Election cycle to promote more community engagement to improve transparency, accountability and relationship with elected District Attorneys. Go to [www.ccjrc4action.org](http://www.ccjrc4action.org) to learn more and get involved.

*The power of the state to punish for crimes is profound, and the prosecutor directs this awesome power. How might ‘We the People’ control the choices of such a pivotal public servant?*

*Ronald F. Wright –Professor at Wake Forest University*

## DID YOU KNOW

### ***DA’s have decision-making power to determine:***

- Whether or not to file criminal charges
- Plea-bargaining
- Whether or not a diversion program is implemented
- Services, compensation and funding for victims of crime

### ***DA’s have power and influence beyond the courtroom!***

- Public policy at the state and local level
- State and local budgets
- Public opinion on safety, equity, and justice issues
- Other government and elected officials

In 2020, there are two candidates running for District Attorney in the 18<sup>th</sup> Judicial District County. Amy Padden (D) and John Kellner (R)

CCJRC 4 Action submitted a written candidate questionnaire to both Mr. Kellner and Ms. Padden. Both submitted responses which are reprinted verbatim and, in their entirety up to the 500 word limit per question and are presented in alphabetical order by last name. We thank the candidates for their participation.

John Kellner ..... page 3  
 Amy Padden ..... page 10

*CCJRC 4 Action publishes this District Attorney Voter Guide for educational purposes only. The views expressed by the candidates are their own.*



JD 18 Candidate: John Kellner (R)

[www.johnkeller.com](http://www.johnkeller.com)

Section #1: People are interested in your perspective on key social justice issues. Please answer the following questions:

**1. Why are you running for District Attorney including what qualifications do you bring to this elected position, and what will be the priorities of your administration, including any areas of improvement and measures of success?**

I am running for District Attorney to stand up for the safety of our communities. Everyone deserves to live in a safe place. I joined the Marine Corps to serve my country after 9/11 and saw firsthand in Afghanistan what a country looks like without the Rule of Law, and I've tried cases with victims from other countries who knew firsthand the drastic difference between a country that will prosecute those who will do them harm and one that will avoid prosecution to appease the politically powerful. I promise not to let politics guide my approach to justice and to serve everyone in the 18th Judicial district.

I did not move here to run for office. This is the place my wife and I chose to raise our children, to send them to public school, and where I have served my community for the last 7 ½ years, seeking justice for victims of crimes in the 18th Judicial District. Some of those cases include:

- Justice for a murdered Sudanese refugee killed by gang members in Aurora.
- Justice for a mother who disappeared in 1996, killed in an act of domestic violence.
- Justice for a young immigrant murdered for the contents of his wallet.
- Justice for a young man killed in a crosswalk by a repeat drunk driver in Aurora.

I have prosecuted drug trafficking organizations who peddled addictive poison, including powerful businessmen that profited off of selling illegal designer drugs to teenagers. Just last week I prosecuted a man who while high on drugs hit and killed a cyclist in our community and fled the state to avoid justice.

I have been a prosecutor for over a decade and have first chaired every level of crime. I was named Prosecutor of the Year for the entire state of Colorado in 2016 and in 2018 I was part of MADD's prosecution team of the year. My legal career has been in service to others, first to my country, and now to the People of Colorado. The people of our community deserve protection from criminals who would do them harm; our children deserve to live in safe neighborhoods; and the accused in the 18th Judicial District deserve to have someone who will always evaluate every single case based on what is just and not what is politically convenient. The DA's office is not a place to make political statements and our community's victims should not take second place to a political agenda.

Experience matters. The District Attorney wields a great amount of power, and that power requires a significant amount of judgment. And good judgment comes from years of experience charging, trying, and pleading cases.

I've revisited old cases and resentenced convicted felons to lesser terms where doing so was just. I've also convicted child-murderers to life in prison. Every crime is different. There is no one size fits all, and platitudes do not equal justice.

**2. How would you describe your idea of justice, the purposes of sentencing, and whether you believe our current system is meeting those purposes in the Judicial District you would like to serve as the elected District Attorney?**

Justice is a fair process that ensures a fair result. It is about doing the right thing, at the right time, for the right reason.

The purposes of sentencing are spelled out clearly in Colorado law, but generally include punishment, fair and consistent treatment, deterrence, promoting rehabilitation, addressing individual characteristics of an offender, promoting acceptance of responsibility and accountability, and healing for victims through restorative justice practices. Specific to sentencing, though, the number one problem is that the sentence imposed does not equate to the sentence served, which is unfair to both victims and defendants.

Victims must be told that a 10-year sentence may mean something far less than 10 years, maybe even half of that. On the other hand, when Defendants are facing a plea they do not know if their 10-year sentence will mean 5 or 10 years in reality. Nobody – not the prosecutor, defense attorney, victim, defendant, or even the judge can predict what sentence will actually be served. This diminishes the ability of sentences to deter future crimes, harms defendants who may have unrealistic expectations of what sentence they will actually serve, and undermines healing for victims and their faith in the system because they feel deceived by the gap between the sentence they hear from the judge and the sentence actually served.

For the sentencing system to truly work, truth in sentencing is a fundamental necessity. But prison sentences are just one component of sentencing. Many more individuals that come through our court system are placed on probation or some other form of supervision. In fact, the vast majority of sentences in the 18th Judicial District fall into this category, and it is one that I think has the most promise for real change. Alternative courts like the Veteran's Treatment Court I helped form in the 18th Judicial District have a great track record of success in both holding offenders accountable and providing effective rehabilitation through evidence-based practices. I would like to see more programs like it in the 18th Judicial District so we can ensure that more offenders have access to treatment courts early on in their involvement in the justice system so we can help break the cycle of recidivism.

**3. How do you think that Colorado can reduce the Department of Corrections budget which is likely to be over \$1billion dollars in the upcoming fiscal year, for the first time in state history?**

The DOC budget is a bad metric to measure effectiveness in our justice system because costs are not only driven by the number of people incarcerated or the length the sentences they are serving. Programs focused on rehabilitation cost money. Far too often, defendants wait for access to counseling and treatment programs that can help them turn their lives around. Many of our citizens in our prison system have untreated substance abuse issues, undiagnosed mental health illnesses, or could otherwise benefit from educational or counseling programs to help them build better life skills to make better choices in the future. Looking only at a budget number is a disservice to the vast majority of those in prison (who will eventually come back in to our community). I support these programs and would not be in favor of cutting the DOC budget primarily because I think more – not less- programs for our incarcerated population would be a good thing.

Some of our most dangerous violent offenders need to be in prison for long periods of time for community safety. The reality, though, is that for the vast majority of offenders who come through the judicial system, life in prison is neither an option nor would it be appropriate. The average length of stay in prison is currently 36 months (<https://www.colorado.gov/pacific/dcj-ors/ors-length-stay-prison>). Unfortunately, however, one out of

three DOC inmates will violate a term of their parole within three years of release. Nearly one out of six inmates will be charged with a new crime within three years of leaving the prison system. This is a failure we need to take seriously and address.

Yes, we need to scrutinize who is sent to prison. But we are not locking people up and throwing away the key. Where there is room for improvement is in our ability to support inmates' reentry after their prison terms. We need to ensure that people who are serving prison sentences are given access to programs, education, and assistance that equips them with the tools to succeed outside of prison in our communities when they are released, and as DA I want to work with programs both inside and outside of the DOC to do that.

**4. There is a narrative that tries to explain racial disparity in the criminal justice system as a consequence that people of color just commit more crime. Do you believe there is racial disparity in the criminal justice system? If so, please discuss what you believe to be root causes of that disparity and, if not, please share the basis for that opinion.**

Racial disparity exists and we all need to be aware of the unconscious biases that pervade all walks of life. The 18th Judicial District has conducted multiple unconscious bias trainings over the last several years and I am committed to continuing that work to ensure our attorneys are not acting in a way that unfairly prosecutes people of color.

It must be said though, that I have been working in the criminal justice system in Colorado for over a decade, and I don't believe the judges, juries, police, or prosecutors I've encountered are racist or set out to target certain populations. Far too often, we only look at one part of the racial disparity in criminal justice: the percentage of defendants of a particular population and how that relates to the population as a whole. When we do that, we ignore that more often than not, there are also a disproportionate number of victims of color in our communities. Crime, and the consequences of that crime (both for victims and defendants) are much more often felt in communities of color, and that needs to be changed.

Unfortunately, there is no easy answer to solving this problem. There are complex and historical inequities that contribute to this problem. Economics, education, and early involvement in the criminal justice system can all play a role in increasing the likelihood that someone will find themselves not only in the system in the first place, but back in the system with a long criminal record. By the time the DA's office comes into play, it is after a crime has already allegedly been committed, and we are tasked with protecting both the victim of that crime and the community the crime is in. We must also carefully evaluate what would be a just result for that victim and community as well as what is the most appropriate outcome for the defendant. In that limited role, I think the DA's office needs to ensure that we focus on early positive and rehabilitative intervention opportunities in communities that have traditionally not had access to resources they need. A teen's access to substance abuse counseling should not be driven by whether their parent can afford health insurance or a private provider. Access to mental health services shouldn't come only after a violent crime, and early involvement in the justice system should be an opportunity to provide defendants not only with a sentence, but also resources and incentive to turn things around.

**5. What formal policies would you be willing to adopt regarding the consideration of immigration consequences for noncitizen defendants in the plea negotiation and sentencing recommendations and U visa protections for immigrant survivors of crime?**

U-Visas are a vital protection for immigrant survivors of crime and something I wholeheartedly support. Here's a real-life example: Three men, at least two of which were not citizens, were targeted for a home invasion robbery at the home of "RM," a hardworking immigrant who did not have citizenship. Armed gunmen with violent criminal histories burst into his home. This was a gang-related crime, and the victim was very concerned about his safety. The case lasted for years as the defendants took advantage of every delay tactic in the hope the

immigrant victim would be deported or refuse to participate in the trial. But the victim stayed and was critical in helping us successfully prosecute the crime. The 18th Judicial District unequivocally supported the victim's U-Visa application because everyone deserves justice regardless of their immigration status. Immigrants, whether legal or not, should not be an easier target for violent crime because of their citizenship status.

Regarding defendants, I am not in favor of adopting policies that consider immigration consequences in plea negotiations. The DA's office should not treat defendants who commit the same crime differently based on non-criminal consequences they may face for their crime. By way of example, most people remember the Brock Turner case out of California. Mr. Turner committed a heinous sexual assault on an intoxicated and unconscious victim and was found guilty at trial. But the judge gave Turner an extremely lenient sentence because of the "adverse collateral consequences" he faced as a result of his conviction. Put simply, the judge concluded that because he thought Turner had more to lose, his sentence should be reduced. That was wrong and a miscarriage of justice. A defendant with a privileged background should not be treated differently than any other defendant in the criminal justice system.

Every defendant faces consequences for their criminal conduct. The person who knows best what those consequences could be is the defendant him or herself, before the crime is committed. Those negative consequences should incentivize the defendant to not commit the crime. But if he or she does it anyway, it is the defendant's responsibility to deal with the "adverse collateral consequences" of their actions.

**6. People with a criminal conviction can face long-term barriers to housing, employment and other collateral consequences as a result of having a criminal record. What, if any, strategies would you support that could mitigate unnecessary collateral consequences?**

Mistakes should not define one's life. For first time or low-level offenses, the answer is often a diversion program that seeks to rehabilitate and prevent further crime. Successful diversion programs – we have developed the most robust juvenile diversion program in the state and a growing adult program – are an important part of the spectrum of possible criminal justice outcomes that can mitigate collateral consequences.

There has also been significant legislative progress in expanding the sealing of certain types of cases. As a Chief Deputy District Attorney, I have authorized sealing dozens of old cases where the interest of justice does not support a public criminal record.

I would also support legislation that gives authority for District Attorneys to seal or even expunge certain criminal convictions, like marijuana possession cases that are no longer a crime. The current patchwork of workarounds (some of which are questionably legal) from district to district leaves too many people without equal access to postconviction relief.

I also want the DA's office to work with community programs that help formerly incarcerated individuals transition out of prison and into stable homes and jobs.

**7. What is your perspective on the availability and adequacy of crime survivor services, in general, and specifically what steps would you take to better meet the needs of underserved crime survivors? (By underserved, we mean low income, people of color, men, LGBTQ, and crime survivors who also have a criminal background.)**

As a Chief Deputy District Attorney in the 18th Judicial District I've had the opportunity to help develop holistic victim services. My prosecution team recently tried a hate crime against a young gay couple in Aurora. They were brutally attacked at their apartment complex simply for being gay. From the beginning we proactively reached out to the victims to inform them of the legal process and ensure they felt heard by the judge. Our victim advocates formed relationships with the victims and their loved ones. We connected the victims with services to

process their trauma and community groups to support them. In the end, when we argued for a prison sentence, we had a packed courtroom filled with people in support of our victims. LGBTQ organizations from across the state sent letters and representatives to join us in asking for justice, and in the end, the judge handed down a prison sentence that sent the message we won't tolerate hate in our community. Even after the case concluded, the victim advocate and I have taught about hate crime prosecution in conjunction with the Anti-Defamation League. As a DA I take hate crimes seriously. I've prosecuted them; I've taught others how to prosecute them; and I feel passionately that crimes meant to instill fear in any members of our society should not be tolerated.

I've also helped support a new program within the DA's Office called One Place, that brings together community resources for victims in one convenient location. We realized this was much more effective than simply giving a list of resources to victims, many of whom do not have reliable transportation, and expecting they could go all over the metro area for the help they need. When we started One Place I would help bring food from the Food Bank and gather clothing and jackets for kids. One Place also brings together partners such as Project Safeguard, Gateway Domestic Violence Services, The Crisis Center, Legal Aid, TriCounty Health, medical service providers and many others. One Place has helped instill greater trust and confidence in the DA's Office by showing underserved victims that we truly care about them. They aren't just numbers, they are people deserving of empathy, compassion, and the greatest help we can offer.

And as I discussed above in Question #4, I feel strongly about protecting all of the communities served by the 18th Judicial District.

**8. Are there any things your administration would change with regard to the prosecution and sentencing recommendations related to women? If so, what changes would you make and why?**

Each case needs to be evaluated based on the individual circumstances of the case, the evidence and law. It would be wrong to treat a woman defendant differently solely on the basis of sex.

**9. There is very little information available to the public about the decision-making and outcomes of the District Attorney's Office. What would you do to improve the transparency of the District Attorney's Office, including what data would you make available to the public, what method would you use to inform the public, and what formal opportunities would you put in place to receive community input?**

The 18th Judicial District has actually led the state in data transparency. I believe we are the only district that publishes information on our website of the cases where defendants were sentenced to prison. This is a good start but we can do much more to increase transparency. As District Attorney I will hold "town halls" to answer questions about our office, cases and policies. I will establish multiple Community Advisory Boards to get input on important issues from juvenile violence, school safety, sentencing and more.

I will invite legislators and stakeholders to come to court and see what we do and explain our decisions (to the extent we can ethically and legally do so on open cases). I want everyone to view my administration as willing to collaborate on criminal justice reform issues. Indeed, just last year I saw an opportunity for common sense reform that enhanced the truth-seeking process. I presented my idea to Senator Rhonda Fields who co-sponsored the bill, SB-88, and helped shepherd it through the legislative process. I worked with the defense bar to re-write parts of the bill because I respect their input. In the end, SB-88 passed nearly unanimously and was signed into law by Gov. Polis. I'm willing to work with anyone to enact positive change in our justice system, regardless of whether they are Republican or Democrat.

Regarding officer-involved shooting investigations I would make available our entire investigation and detail any decision not to prosecute in a public letter. The letter would be posted on our website and I would hold a meeting in the community where the shooting happened to answer any questions by interested parties. It is also important to complete such investigations in a timely manner. I pledge to speed up this process from months to

weeks. A faster process creates greater engagement and accountability with the public.

**10. If elected DA, what would be your approach to defendants whose criminal conduct is solely or largely related to an underlying addiction or mental illness?**

I have been a proud and vocal supporter of Problem Solving Courts in the 18th Judicial District. I was a founder of the Veterans Treatment Court which aims to help veterans in the justice system who struggle with addiction, PTSD or other mental illnesses related to their service. The Veterans Treatment Court brings together a judge, defense attorneys, prosecutors, probation, treatment providers and community groups to help rehabilitate these defendants and the results have been astounding. Our program has less than 5% recidivism among graduates compared to the Colorado average of nearly 50%. As DA I would explore more opportunities to create similar treatment courts for other offenders.

I am also a member of the Steering Committee for our other Problem Solving Courts, including our drug court, mental health court, and DUI court. These programs have proven extremely effective in lowering recidivism and breaking cycles of addiction that land people back in the justice system over and over. As the next District Attorney I intend to expand access to these programs.

**11.If elected DA, would you support an effort to re-institute the death penalty in Colorado?**

I believe that some offenses are so terrible they warrant the death penalty and I have unfortunately been faced with a few over the course of my career. Whether or not I would support an effort to re-institute the death penalty would depend on the specific bill being proposed.

**12.Do you think the current system related to bail is adequate in determining pretrial detention that mitigates the chances that lower income people will be held pretrial simply because they cannot afford to make bond. If so, what are the strengths of the current bail system and what would you change?**

The current bail system is not great, and it clearly doesn't work for everyone. We have people in custody because they didn't have transportation to get to court. In a world where we have virtual court, we should be able to utilize technology to address those types of cases. But the flip side is also true. Recently in court we had a person on their 4th case of 2020, with three alleged crimes occurring while he was on bond. Pre-trial supervision needs to be available for those cases that need it, but there are also circumstances where treatment such as monitored sobriety is more beneficial to public safety than monetary bonds.

We also need sensible reforms post-COVID like text message reminders of court dates, online public defender applications, and virtual court for certain pretrial hearings so defendants can appear without missing work or driving (things that can revoke their bond).

**Section #2: People would like to know your views about unilateral discretion, potential reforms, and treatment of the accused. Please answer the following questions by placing an "X" in the column that best represents your answer to each of the following questions:**

	Yes	No	Maybe	Pass
1. Will your office track and publicly release race and ethnicity data, permit an independent, outside source to review the data, evaluate disparities, and make publicly reported recommendations to reduce them?	X			
2. Colorado's habitual criminal statute eliminates judicial discretion and requires mandatory prison			X	

sentences of 300% or 400% above the normal maximum sentence. Would you support reform of the habitual criminal statute to lower these harsh mandatory sentences and narrow the circumstances where the habitual criminal statute may be used by prosecutors?				
3. In Colorado, the statute known as the two prior felony rule gives the prosecutor the sole power to determine whether a person can be probation eligible for a third felony offense. Would you support the elimination of the two prior felony rule so that judges -and not prosecutors - have the power to determine whether probation is appropriate in a particular case?		X		
4. Would you support reduction of the felony murder statue from an F1 offense carrying a life sentence to an F2 offense?		X		
5. As provided for in state law, will you commit to a formal policy to develop criteria and consent to the issuance of a summons in lieu of warrant by law enforcement officers for misdemeanors and low-level felonies?	X			
6. Will you commit to reducing the number of people sent to jail or prison from the 18th Judicial District by 25% by the end of your first term?		X		
7. Will you adopt a written policy to direct prosecutors to favorably consider immigration consequences in plea negotiations and post-conviction cases?		X		
8. Will you commit to swiftly and thoroughly investigating officer-involved killings to determine if criminal charges against the police officer are warranted, and, where charges are not filed, make your investigation and findings publicly available?	X			
9. Will you decline to prosecute simple misdemeanor drug possession cases?		X		
10. Local criminal legal systems disproportionately harm people living in poverty. Will you commit to a 25% reduction in prosecution of quality-of-life offenses - including trespass, public urination, and driving without a license -that carry devastating consequences for people living in poverty?		X		



## JD18 Candidate: Amy Padden (D)

[www.amypadden.com](http://www.amypadden.com)

Section #1: People are interested in your perspective on key social justice issues. Please answer the following questions:

**1. Why are you running for District Attorney including what qualifications do you bring to this elected position, and what will be the priorities of your administration, including any areas of improvement and measures of success?**

I am running for District Attorney because, as the largest Judicial District, this office is critically important to our communities, including Aurora (where my husband and I live, and our daughter, who is a teacher with Aurora Public Schools, lives).

This office has made life-altering decisions for members of our most vulnerable populations, namely our black and brown members of the community. It is time for new leadership in the office that is sensitive to the critical issues affecting the criminal justice system in our district.

Too often, prosecutors measure success by counting the number of convictions they have. To the contrary, I think that prosecutors need to re-focus on providing opportunities for rehabilitation of offenders, repairing the harm caused to communities, and rebuilding their lives in a way that reduces the likelihood of re-offending.

I have a wealth of diverse experience from my 26 years as an attorney, both in the private and public sector. During law school, I interned at a state public defender's office, practicing under the Student Practice Act. After graduating from Georgetown law, I clerked for two judges in DC, one of whom (Harold Greene) had been a civil rights lawyer at DOJ. After several years in private practice (where I handled criminal appeals and immigration cases on a pro bono basis from time to time), I was able to pursue my passion to become a public servant. I was first a consumer protection prosecutor at the Colorado Attorney General's Office, where I investigated and prosecuted cases of charity fraud and other illegal business practices. After that, I spent over a decade at the U.S. Attorney's Office, including in seven years in leadership roles under Obama's appointed U.S. Attorney John Walsh, and his successor, Bob Troyer. Just before I left that job, I served as the third in command in the office, where I supervised prosecutors and staff all around the state.

During my time as an AUSA, I worked on some of the highest profile cases, including post-trial motions

in the Oklahoma City bomber case, cases involving national security including the 1993 World Trade Center bombers, and a large lawsuit that reformed the way that the federal prison system treats maximum security inmates with serious mental illness. I received a national award for my work on the prison case. I was also selected by DOJ leadership to be part of two national working groups: one on prison reform and another to address implicit bias in federal prosecutions.

After the 2016 election, I left that job to run for Attorney General. Thereafter, I returned to the AG's office, where I worked in both the Law Enforcement and Special Prosecution Units. In the latter position, I handled felony cases in the rural areas of Colorado.

After that, I was the Supervising Adult Diversion Prosecutor in in the 5th Judicial District, where I built an adult diversion program from the ground up and prosecuted cases. I am currently a Deputy District Attorney in the 11th Judicial District.

**2. How would you describe your idea of justice, the purposes of sentencing, and whether you believe our current system is meeting those purposes in the Judicial District you would like to serve as the elected District Attorney?**

The status quo does not work right now. I believe justice should be truly blind, and based on the law and whether or not it was broken. Consequences for breaking the law should be applied equitably, but also with an eye on rehabilitation and repairing harms to the community.

But we know that is not the case – if you just look at our correctional facilities, you will see that the massive majority of inmates are of one ethnicity or color, even though those groups are minorities in society at large. That disparity is one of the outcomes of implicit biases that, whether we realize it or not, impact decision making processes that determine who is being thrown behind bars and for how long. We also know that, if a person looks a certain way, it increases the risk of having an interaction with the police at all.

I've heard from defense attorneys about black and brown offenders getting more time than their white counterparts for the same crime with the same context in the 18th JD. Sentences are designed to keep society safe by removing offenders from the community, but we also need to do more work on rehabilitating the offender.

As DA, I will focus on training to counteract these issues, setting expectations from the top with these goals in mind, and implementing a set of policies to maintain checks and balances. I will couple that with transparency and accountability and will bring new leadership to the 18th JD.

**3. How do you think that Colorado can reduce the Department of Corrections budget which is likely to be over \$1billion dollars in the upcoming fiscal year, for the first time in state history?**

We need a DA with a proven track record of implementing alternatives to incarceration, not just locking people up. At my prior position, I built an Adult Diversion program from the ground up. We screened offenders charged with non-violent felonies and rather than putting them through a trial, we connected them with resources, had them take steps to repair the harm to the community, and gave them tools to put their lives back on track. Programs like these reduce both incarceration rates and recidivism.

While JD18 has an adult diversion program, very little information is publicly available about it, and it

appears to be small and not very robust. I will re-tool and enhance that program to make that program one of the best in the state.

We also need to be proactive in breaking the school to prison pipeline, and not try kids as adults. If a child has committed a serious crime, that is more a reflection of society failing that child. We must do better to keep our youth out of the correctional system.

Finally, most prosecutors have little understanding as to what happens to defendants once they are sent off to prison. I have first-hand experience working on issues of prison reform, including handling a landmark case that fundamentally reformed the way the Federal Bureau of Prisons treated “super-max” offenders with serious mental illness. By providing offenders with services, the BOP was able to eventually transfer those offenders to lower security settings (saving money).

**4. There is a narrative that tries to explain racial disparity in the criminal justice system as a consequence that people of color just commit more crime. Do you believe there is racial disparity in the criminal justice system? If so, please discuss what you believe to be root causes of that disparity and, if not, please share the basis for that opinion.**

I do believe that there is disparity in the criminal justice system, but it is a false narrative that people of color simply commit more crime. For example, look at the stop and frisk policies in NYC. Between January 2004 and June 2012, the city conducted 4.4 million stops, of which 6 percent resulted in arrests and 6 percent resulted in summonses. In other words, 88 percent of the 4.4 million people who were stopped were doing nothing wrong. More than half of all people stopped were frisked, yet the police only found illegal weapons in 1.5 percent. Of the 4.4 million cases, 83% of them were black or Hispanic, even though those two groups accounted for barely more than half the population.

In defending these policies when sued, the City argued that minorities commit more crimes. The judge overseeing the case properly rejected this argument: “this reasoning is flawed because the stopped population is overwhelmingly innocent — not criminal. There is no basis for assuming that an innocent population shares the same characteristics as the criminal suspect population in the same area.”

I believe that the biggest root cause of these disparities are implicit biases. These biases are present throughout the life cycle of a case, from who is stopped, to who is arrested, to what is investigated and charged, to what offers are made, and what sentences are sought. We need additional training at all levels of the criminal justice process to address these biases.

**5. What formal policies would you be willing to adopt regarding the consideration of immigration consequences for noncitizen defendants in the plea negotiation and sentencing recommendations and U visa protections for immigrant survivors of crime?**

The 18th JD is an extremely diverse community, with a thriving immigrant population. I would implement an office-wide policy requiring prosecutors to consider immigration consequences in charging, plea, and sentencing decisions. Pre-plea diversion programs can also help accomplish these goals, and I will have some of the best diversion programs in the state.

Particularly in the diverse communities of the 18th JD, the protections of U Visas are critical to put noncitizen victims at ease when coming forward and reporting crimes. In one of the cases I tried in the 5th JD, the victim had been granted a U Visa prior to trial, and I will have policies ensuring that these

applications are reviewed and processed in a timely manner.

**6. People with a criminal conviction can face long-term barriers to housing, employment and other collateral consequences as a result of having a criminal record. What, if any, strategies would you support that could mitigate unnecessary collateral consequences?**

Alternatives to incarceration are key to helping avoid the collateral consequences before a conviction ever enters the equation. Pre-plea adult diversion programs can help an offender avoid the baggage of a felony conviction for the rest of his or her life. For those individuals who have a conviction for activity that is no longer illegal, I would also support expungement. Finally, partnering with community groups such as the Second Chance Center (where I had been volunteering before COVID) is critically important.

**7. What is your perspective on the availability and adequacy of crime survivor services, in general, and specifically what steps would you take to better meet the needs of underserved crime survivors? (*By underserved, we mean low-income, people of color, men, LGBTQ, and crime survivors who also have a criminal background.*)**

As a victim of crime myself (I was seriously threatened by a maximum security federal inmate, who was convicted, while I was an Assistant U.S. Attorney), I know how important it is to stand up for victims rights. I will ensure full compliance with our Victim Rights Act. I will also ensure that victims know what services are available to them.

Restorative justice can play an important role in ensuring victims' needs are met. Justice often looks different for different victims, and some victims would rather see the offender repair the harm caused to the victim and the community than serve time. It's also important to ensure that victims have access to services, as we unfortunately sometimes see victims later become perpetrators of crime, and we need to be sure victims are getting the services they need to heal.

**8. Are there any things your administration would change with regard to the prosecution and sentencing recommendations related to women? If so, what changes would you make and why?**

Yes. In running my Adult Diversion program, I identified many women who were ideal candidates. As an example, my first client in the program was a young woman of color, a single mom, who had stolen from her employer because she couldn't afford to feed her baby. She was so overcome with guilt that she turned herself in before the theft was detected. Sending her to prison would not only have ruined her life, but that of her young son. Finding alternatives to incarceration for offenders like her is key to making our communities safer.

**9. There is very little information available to the public about the decision-making and outcomes of the District Attorney's Office. What would you do to improve the transparency of the District Attorney's Office, including what data would you make available to the public, what method would you use to inform the public, and what formal opportunities would you put in place to receive community input?**

The District Attorney's office needs to be far more transparent – this has been a big frustration of our community for a long time. For example, while the office website has quarterly data about DOJ

sentences, the race and ethnicity information is woefully incomplete, and the data is presented in a pdf format, making it difficult for interested individuals to analyze the data provided. As the next DA, I will have a Community Engagement office. We will have stakeholders from the community and municipalities meet with a liaison from our office. I envision City Councilmembers, School Board members, CCJRC, activist groups, faith-based organizations like GMDMA, and other organizations having an opportunity, not to just vent about individual cases, but to have their input recognized about overarching, large-scale issues that we may be able to improve upon.

In addition, I have been having Community Conversations on various topics with community leaders for the past several months, which are like town halls combined with a listening tour. Neither the incumbent nor my opponent has done anything like this. I plan to continue that type of accessibility and partnership with the community as the next DA.

**10. If elected DA, what would be your approach to defendants whose criminal conduct is solely or largely related to an underlying addiction or mental illness?**

We need to do a better job of identifying the causes of criminal behavior, rather than just punishing the behavior itself. Diversion programs can play a key role in this, by connecting offenders with resources rather than just locking them up. Specialty courts can also play an important role in addressing these issues. Finally, having joint response teams, where mental health providers arrive on scene with law enforcement in certain situations, can help identify people with underlying issues before they enter the system.

**11. If elected DA, would you support an effort to re-institute the death penalty in Colorado?**

Absolutely not. I am the only candidate in the 18<sup>th</sup> JD race that publicly supported the repeal before the Legislature acted.

**12. Do you think the current system related to bail is adequate in determining pretrial detention that mitigates the chances that lower income people will be held pretrial simply because they cannot afford to make bond. If so, what are the strengths of the current bail system and what would you change?**

No. While the recent reforms by the state Legislature were a step in the right direction, more needs to be done to ensure that individuals who have been charged with a crime but have little or no demonstrated flight risk are not unnecessarily detained pre-trial. The continued use of cash bail in those circumstances contributes to incarceration of poor people and people of color by keeping them locked up because they can't post bail. And, as they wait in jail and are unable to work, they may lose their jobs or their homes, and their families are weakened. COVID 19 has caused many Districts to look at their approach to requesting bail and to request it less frequently, which should continue after the crisis passes.

**Section #2:** People would like to know your views about unilateral discretion, potential reforms, and treatment of the accused. Please answer the following questions by placing an “X” in the column that best represents your answer to each of the following questions:

	Yes	No	Maybe	Pass
11. Will your office track and publicly release race and ethnicity data, permit an independent, outside source to review the data, evaluate disparities, and make publicly reported recommendations to reduce them?	X			
12. Colorado’s habitual criminal statute eliminates judicial discretion and requires mandatory prison sentences of 300% or 400% above the normal maximum sentence. Would you support reform of the habitual criminal statute to lower these harsh mandatory sentences and narrow the circumstances where the habitual criminal statute may be used by prosecutors?	X			
13. In Colorado, the statute known as the two prior felony rule gives the prosecutor the sole power to determine whether a person can be probation eligible for a third felony offense. Would you support the elimination of the two prior felony rule so that judges -and not prosecutors – have the power to determine whether probation is appropriate in a particular case?	X			
14. Would you support reduction of the felony murder statue from an F1 offense carrying a life sentence to an F2 offense?	X			
15. As provided for in state law, will you commit to a formal policy to develop criteria and consent to the issuance of a summons in lieu of warrant by law enforcement officers for misdemeanors and low-level felonies?	X			
16. Will you commit to reducing the number of people sent to jail or prison from the 18th Judicial District by 25% by the end of your first term?	X*			
17. Will you adopt a written policy to direct prosecutors to favorably consider immigration consequences in plea negotiations and post-conviction cases?	X			
18. Will you commit to swiftly and thoroughly investigating officer-involved killings to determine if criminal charges against the police officer are warranted, and, where charges are not filed, make your investigation and findings publicly available?	X			
19. Will you decline to prosecute simple misdemeanor drug possession cases?			X*	

**20. Local criminal legal systems disproportionately harm people living in poverty. Will you commit to a 25% reduction in prosecution of quality-of-life offenses – including trespass, public urination, and driving without a license – that carry devastating consequences for people living in poverty?**

		X*	
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Comments to asterisks: No. 6, yes, assuming that other things remain static. For example, if there is a large spike in violent crime, it might not be possible to reach this goal while still ensuring community safety (which must be the top priority). Also, I plan to include pre-filing diversion cases in our diversion program, and that may result in cases not getting filed at all, which may affect this metric.

No. 9: With the reduction of drug charges from felonies to misdemeanors, the legislature has indicated that these cases should be a lower level priority. However, I would like to expand diversion for drug possession offenses, coupled with treatment where needed.

No. 10: Depending on the locality, some of these crimes are prosecuted at the municipal level which may affect the ability to reach any specific metric. That said, I do understand the effect that prosecuting these crimes can have on people in poverty.

## *Voting With Conviction*

CCJRC4Action has a different vision for criminal justice in Colorado. It aims to provide communities with effective, just, and equitable health and safety solutions that recognize

CCJRC4A works to engage, educate and mobilize voters. We aim to build political power in communities most impacted by crime, overcriminalization and mass incarceration, and we are particularly interested in boosting voter engagement among people who have been directly impacted by the criminal justice system.

These efforts dovetail with CCJRC's Voting With Conviction campaign, which works to inform citizens that most people with criminal records — including those on probation and parole, and many currently in jail — are eligible to vote in Colorado.



Building political power together requires participation. We don't care if you like politics or politicians but we do care that you Use Your Voice—Register to Vote & Vote! Contact us at (720) 593-8640 or [email Juston Cooper, Executive Director at \[juston@ccjrc4action.org\]\(mailto:juston@ccjrc4action.org\)](mailto:juston@ccjrc4action.org)