



ROADBLOCKS TO REFORM

DISTRICT ATTORNEYS, ELECTIONS, AND
THE CRIMINAL JUSTICE STATUS QUO

ACKNOWLEDGEMENTS

The American Civil Liberties Union (ACLU) of Oregon is a nonpartisan organization dedicated to the preservation and enhancement of civil liberties and civil rights. We advance civil liberties and rights through impact litigation, public education, research, advocacy, and strategic lobbying.

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ROADBLOCKS TO REFORM:

District Attorneys, Elections, and the Criminal Justice Status Quo

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INTRODUCTION

Over the past several years, a new consensus regarding problems in America's criminal justice system and the need for reform has emerged among political leaders and the public. There is now widespread recognition that the War on Drugs is a failed strategy and the current level of incarceration is unsustainable. High profile leaders across the political spectrum—from President Obama, to Senator Rand Paul, to the Koch Brothers, and bipartisan groups of leaders and elected officials in many states—are actively pursuing criminal justice reform. There is bipartisan consensus that spending billions of dollars each year to fill prisons is a costly and ineffective approach to addressing crime. We now know more about what constitutes smart on crime policies, and there is a politically diverse groundswell focused on walking back the policies of the 1980s and 1990s that made America the world leader in the use of incarceration in a system further shamed by severe racial disparity.

Despite this national consensus and despite bipartisan efforts in Congress and state legislatures across the country, there is a consistent roadblock to reform: district attorneys and prosecutors. District attorneys (DAs) seem to be stuck in the 1990s, advocating to maintain the status quo and resisting evidence-based, proven strategies to spend criminal justice resources more wisely and reduce our reliance on incarceration, while improving

public safety. Although there are some reform-minded DAs, they are the exception rather than the rule.

There are multiple reasons why district attorneys are uninterested in changing the current criminal justice system, and fight to maintain it.

There is a powerful self-interest at play. The proliferation of mandatory minimum sentencing fundamentally shifted power within the criminal justice system from judges to DAs.



INTRODUCTION

District attorneys alone have the authority to charge people with crimes carrying long mandatory minimum sentences, which defines sentence length in the case of a guilty verdict and removes judicial discretion in regard to weighing the individual circumstances of the case. For decades now, prosecutors have wielded this heavy-handed tool in ways that have dramatically increased the number of plea agreements. In this context, prosecutors, not judges, are the people most often deciding whether someone gets prison, jail, or probation, and for how long. Once people obtain high levels of power, rarely do they volunteer to give it up.

But there is another dynamic that has made district attorneys immune to changing public sentiment and changing understandings of what works best to improve safety and reduce crime: a stagnant democracy. There are over 2,400 elected prosecutors in America, and the overwhelming majority of them run unopposed. This is an area of our democracy that has atrophied.

DAs are arguably the most powerful people in the criminal justice system,

but voters don't seem to know who DAs are or all that they do, nor are voters currently positioned to engage them as elected leaders that can and should be

held accountable.

In a healthy democracy, no elected official should be guaranteed reelection.

In the past ten years and six election cycles from 2004 to 2014, 78% of district attorney races in Oregon were uncontested. There is an atmosphere of inevitability and permanency connected to incumbent DAs in Oregon and across the country. Very few people think they can wage a legitimate challenge to an incumbent DA. These uncontested races deny the public the opportunity for a robust and needed debate about the current state of our criminal justice system and what changes might be needed or desirable, the kind of debate elections usually generate with regard to other issue areas.

This report examines how district attorney elections and appointments lock in the criminal justice status quo, preventing much needed progress and public engagement. The report also includes recommendations for changing these dynamics.

OREGON'S CRIMINAL JUSTICE STATUS QUO IS PRISON GROWTH.

DEPARTMENT OF CORRECTIONS (DOC) SPENDING

1993-95 biennium DOC Budget



2015-17 legislatively adopted DOC Budget



OREGON PRISON POPULATION GROWTH

(Doesn't include county jail population)

January 1995



April 2016



WHO ARE DISTRICT ATTORNEYS ANYWAY?

The public largely doesn't know who their county's district attorney is, nor do people understand the general role of district attorneys.

A district attorney is the top prosecuting attorney in a county. DAs manage a staff of prosecutors who investigate alleged crimes in cooperation with law enforcement, determine whether to file criminal charges, and can bring evidence before a grand jury who can also decide on whether charges should be filed. Although police are responsible for arrests, prosecutors in district attorneys' offices have a tremendous amount of responsibility in determining people's fate once they enter the justice system.

DISTRICT ATTORNEYS HAVE THE POWER TO:

- Determine whether someone gets access to drug treatment or is prosecuted and potentially sent to jail.
- Determine whether a young person is kept in the juvenile justice system or prosecuted in the adult system where they are much more likely to be hurt and to re-offend.
- Decide whether to charge someone with a mandatory minimum, a felony, or a misdemeanor.
- Influence the extent of racial disparity in sentencing because they decide who gets prosecuted and how.
- Influence whether a police officer is charged in a case of misconduct.
- Seek the death penalty.

Criminal justice issues have been thrust into the public discourse in the past few years in ways the country hasn't seen in decades, if ever. **Yet, the role of prosecutors and DAs has often gone under the radar.**

Nevertheless, with all of the recent attention on mass incarceration and America's prison build-up, research is beginning to identify the unique role of prosecutors in contributing to our prison problem.¹ The research of John Pfaff of Fordham Law School, for example, shows that over the past twenty years, district attorneys have become much more aggressive in how they charge people accused of felonies. Because of prosecutorial charging practices, **Even as crime rates have significantly decreased, prosecutors have increased the rate at which they charge people with felonies.**²

America's prison populations have grown substantially despite lower crime rates. Despite heightened awareness of the need for criminal justice reform, district attorneys are not using the latest research or best practices to ensure community safety and are not being held accountable for this by the public.

Our country will not be able to meaningfully address mass incarceration and fully move to smart-on-crime policies without influencing prosecutorial charging practices.

UNENGAGED VOTERS AND THE UNDERVOTE

PAST SIX ELECTIONS: 2004-2014

Total Election Votes

2,891,908

District Attorney Votes

1,811,078

We examined Oregon's district attorney elections over the past 10 years, from 2004 to 2014. That period comprises six different county election cycles. During this period, only 1.8 million people decided to vote for their district attorney out of more than 2.8 million people voting in those elections. That means just over 1 million people chose not to vote for a DA at all.

One potential explanation for why over a million Oregon voters chose not to cast a vote in DA elections in the past ten years is that they are "down-ballot races." In other words, the option to vote for DA appears near the end of the ballot and many people never get that far. Voters will often vote for high profile races and fail to fill out the rest of their ballot.

Another reason there is such low engagement is that district attorney races are so rarely contested. Of the 111 DA races

in the past 10 years, only 24 of them have been contested. Voters are understandably uninspired to vote in an election where the outcome is a foregone conclusion.

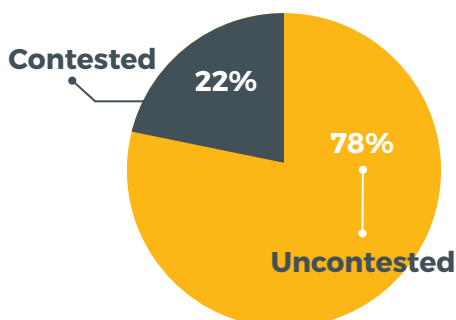
Nearly 8 out of 10 district attorney races were over before they began.

But voter turnout does significantly increase in contested races, which alters the impact of down-ballot considerations. In the 24 contested DA races between 2004 and 2014, the undervote dropped from roughly 40% to 12%.

In fact, voters are engaged when there are real choices.

So, why doesn't Oregon see more contested races? That is a complicated question, but we believe the current approach to DA retirements and gubernatorial appointments plays a significant role.

CONTESTED VS. UNCONTESTED RACES - DA ELECTIONS 2004-2014



111 Total Races

87 Uncontested Races

24 Contested Races

19 Counties With No Contested Races At All

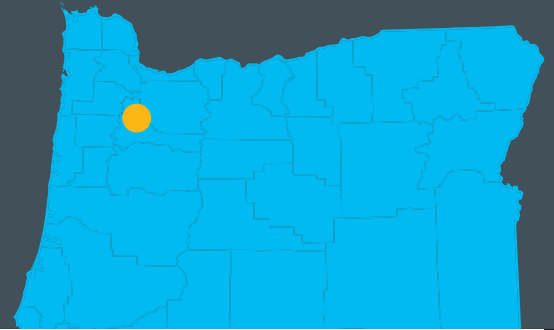
40%

Undervote in Uncontested Races

12%

Undervote in Contested Races

DA RETIREMENTS AND THE GOVERNOR



In Oregon, long-time district attorneys often retire early, before their terms have been completed. Some people believe, perhaps cynically, that leaving the position early is a way for existing district attorneys to hand pick their successors and give them a leg-up before the next election as the deputy DA is promoted and given the benefits of running as an incumbent in the subsequent election. Regardless of motive, this dynamic of retiring without completing the full term further diminishes an already feeble democratic process.

But there is another important piece to this transfer of power. In Oregon, it is the governor who appoints interim DAs to serve the remainder of the term, and this happens regularly. Of the 36 district attorneys serving at the time this report was written, 17 initially attained their position through gubernatorial appointment. That's nearly half.

To a large degree, **gubernatorial appointments have been quiet and unchallenged,**

flying under the public's radar. How do potential candidates learn of an opportunity to be considered for the office? Who is consulted? How does the public find out about this silent transfer of power?

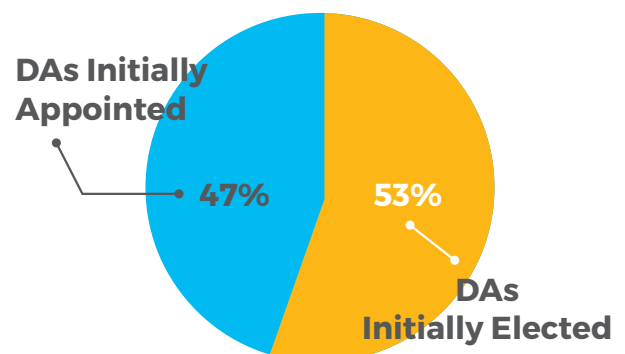
District attorneys are among the most powerful stakeholders in the criminal justice system. Appointing individuals to that position is arguably one of the most important public safety and justice-related roles the governor has. There needs to be more transparency about the process, and a robust conversation about what framework is being used for making those decisions. Is the governor making decisions that continue the status quo? Is there a known set of criteria?

OREGON CURRENTLY HAS

36 Total District Attorneys

17 Appointed into Office

19 Elected into Office



PROMOTION FROM WITHIN:

Curbing New Thinking

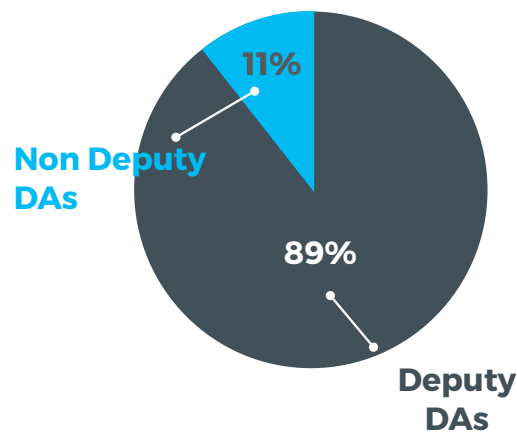
There are places in our society where businesses and government leaders are on the leading edge of innovation, embracing the latest research to implement policies and practices that better serve the public. Businesses value a diverse workforce because they understand that fresh ideas and new perspectives ensure organizations can continually improve and modernize. Unfortunately, new perspectives are difficult to infuse into district attorneys' offices.

When researching the background of the 36 current district attorneys holding office at the time this report was written, it appears that only four DAs had never served in the role of deputy DA at some point before taking office.

On the job experience must count for something, but

when does continual promotion from within constrain progress and needed reforms?

Former deputy district attorneys are **overwhelmingly likely to be next in line for the position of district attorney.**



OREGON CURRENTLY HAS

- 36** Total District Attorneys
- 32** Were Former Deputy District Attorneys
- 4** Were Not Former Deputy District Attorneys

OREGON'S STAGNANT REFORM CLIMATE AND THE DA'S ROLE

We have identified a range of dynamics that combine to create a political landscape where district attorneys are rarely challenged electorally and are rarely compelled to embrace reform. Let's take a moment to examine how those dynamics impact both local and statewide policy decisions about criminal justice reform.

The state's greatest opportunity for substantial criminal justice and sentencing reform in the last 20 years came in 2012 and 2013. Governor Kitzhaber pulled together a Commission on Public Safety to examine the unsustainable growth of the state's prison system and to identify what could be done to make Oregon's criminal justice system more effective and less expensive. The Commission included a diverse group of participants representing the spectrum of justice system stakeholders. The Commission took a year to study innovations that were working in other parts of the country, where states had successfully slowed their growth and reduced their prison populations, and how to apply those lessons to Oregon. The final report recommended a number of modest but meaningful changes wrapped into a *justice reinvestment* framework. Justice reinvestment is a simple concept founded on the idea that states have been spending entirely too much on incarceration while not nearly enough on prevention. By passing smart criminal sentencing reforms,

we can spend less on prisons and reinvest the savings into things like addiction treatment, mental health services, reentry support, and other programs better equipped to prevent future crime.

Despite participating in the workgroup, **district attorneys were intensely opposed to the reform conversation and forcefully defended the system they mostly control.**

In December of 2012, Mike Schrunk (the outgoing Multnomah County DA) and Rod Underhill (Schrunk's deputy DA who was about to take Schrunk's place) co-authored an opinion piece in the Oregonian entitled "Public safety and sentencing reform: Why overhaul a justice system that is working?" That opinion piece was a rather soft representation of what turned out to be a fierce backlash from district attorneys and law enforcement that initially attempted to quash the legislative effort.

Ultimately, rather than killing the legislative efforts altogether, the Oregon District Attorneys Association worked hard to severely water it down, successfully removing, among other things, modest reforms to how Oregon's Measure 11 mandatory minimums automatically put youth in the adult criminal justice system. Those proposed youth justice reforms were built on a near-consensus of criminal



justice and corrections research about what works best to hold young people accountable and reduce future crime.

In the end, a significantly diminished version of HB 3194 (the justice reinvestment bill) was passed with district attorney support, and Oregon's DAs heralded themselves as reformers. What got little attention was that the DAs not only successfully stripped the bill down, but required as a price of their support that the Governor sign an agreement not to consider any sentencing reform for the next five years. Such an agreement was unprecedented.

Fast forward to 2016. Oregon district attorneys still advocate largely for the position characterized by Shrunk and Underhill back in 2012: *Why change a justice system that is working?* But working for whom?

Jail doesn't break the cycle of addiction-driven crime and incarceration doesn't treat mental illness. Yet, there is consistent acknowledgement that county jails across Oregon still warehouse too many people suffering from addiction and mental health issues.

The state's latest prison population forecast (April 2016) shows that growth in the prison population is slowing down.³

So justice reinvestment has had some modest impact. However, even in a slowed-growth context, the Department of Corrections (DOC) had to open a vacant medium-security⁴ facility at Deer Ridge prison earlier in 2016.⁵ DOC moved nearly 800 inmates because of over-crowding, and are trying to create space for 200 more inmates due to prison population growth.⁶ DOC has also identified the need for additional space for women. Slowing prison growth is a small step forward. But **after two decades of sharp growth, Oregon's goal should be to actually reduce the prison population.**

Oregon needs much more than modest reforms have yielded.

Meanwhile, a report from the state's largest county shows consistent and severe racial disparity throughout Multnomah County's criminal justice system. Black people are over three times more likely than Whites to have their cases accepted for prosecution by the district attorney, while Black people are also over five times more likely to be sentenced to jail and six times more likely to be sentenced to prison than Whites. While we only have the data for Multnomah County, there is little reason to think such disparities don't exist in other counties.⁷

And the status quo continues.

INNOVATION AND REFORM ARE POSSIBLE

Taken as a group, Oregon's district attorneys appear uninterested in supporting and implementing meaningful reforms, but **prosecutors can be reform leaders.**

There are a number of meaningful prosecutorial and criminal justice innovations happening in other parts of the country aimed at addressing mass criminalization, over-incarceration, and severe racial disparity.

When looking for prosecutorial reform, Oregon need not look any further than our neighbors to the north. King County Prosecuting Attorney Dan Satterberg was one of the instrumental players in creating the Law Enforcement Assisted Diversion Program (LEAD). LEAD is a cutting edge program developed to address concentrated low-level drug and prostitution related crimes in targeted areas of Seattle and King County. LEAD is a pre-arrest diversion program that allows law enforcement to redirect offenders into transformative community services rather than jail and prosecution.⁸

The LEAD program was created with recognition of the futility of continuing the cycle of arrest, prosecution, and incarceration that does little to address public safety issues. The program works as a strong collaboration between a range of stakeholders, including the elected

prosecutor.⁹

Rather than processing low-level offenders through the criminal justice system, LEAD diverts them into housing, healthcare, job training, treatment and mental health services. Getting someone access to housing after years of living on the streets, or helping someone attain sobriety can help people turn their lives around while also effectively addressing community problems and increasing public safety.

An evaluation of the program shows that people participating in LEAD are 58% less likely to be rearrested and the program costs significantly less than a traditional criminal justice approach.¹⁰

Other prosecutors from around the country have taken notice and are applying similar approaches in their own jurisdictions. T.J. Donovan is the state's attorney for Chittenden County, the most populous county in Vermont. Donovan developed a pre-arrest diversion program of his own, called Rapid Intervention Community Court, and then lobbied his fellow prosecutors to adopt it statewide.¹¹

There are also focused efforts to address racial disparity in prosecution. John Chisolm, district attorney of Milwaukee County in Wisconsin is working to tackle racial disparity head on. After a University of Wisconsin study showed disturbing rates of over-incarceration of African Americans, Chisolm wondered how his own office contributed to the problem.



His first move was to let independent researchers, the Vera Institute of Justice, examine how his staff used prosecutorial discretion. This alone was a significant step forward. Prosecutors' offices are mostly a black box with little transparency. In this case, researchers were allowed to interview staff and examine files.¹²

Researchers found a range of racial disparities, particularly for low-level offenses. Prosecutors were much more likely to drop charges for White people in possession of drug paraphernalia cases, while Black women were more likely to be prosecuted in prostitution cases among other disparities. The Milwaukee district attorney recognized that the problem was how prosecutorial discretion was being used, which also meant they could do something about it.¹³

Chisolm took leadership in tackling the problem. He worked to develop a series of screening processes that allow prosecutors to be more thoughtful in their decision making and also developed an early intervention program designed to divert people from moving deeper into the criminal justice system. He provided more oversight for junior staff, and continued to look at the data to track their progress.¹⁴

But District Attorney Chisolm also adopted a refreshing philosophy about the role of his office. He recognized that in order to

build safe and healthy communities, **the DA should be looking for solutions that are not solely focused on prosecution.**

Prosecutors can't simply play the role of processing cases that law enforcement brings to them. That won't make us safer and can often make our criminal justice problems worse. And given the long term damaging collateral consequences of justice system involvement, some offenses don't make sense to prosecute at all.¹⁵

In regard to addressing racial disparity, the number of African American residents of Milwaukee County sent to prison on drug charges has been cut in half since 2006.¹⁶ Although there is more work to be done in Milwaukee, John Chisolm's office is a good example of what it looks like when a district attorney tries to proactively tackle racial disparity within the system and take accountability for the problem.

Meanwhile, San Francisco District Attorney George Gascon has supported and implemented a wide range of reforms. Gascon has worked to develop a neighborhood restorative justice model to address low level offenses. The program creates an approach for community-driven solutions for crime, reducing the burden of criminal courts, reducing the collateral consequences of criminal records, and increasing the opportunities for repairing harm to victims.¹⁷

While DAs have traditionally opposed sentencing reforms, Gascon publicly supported California's Proposition 47, which voters passed in 2014.¹⁸ The new law moved a number of property and drug-related offenses from felonies to misdemeanors in order to de-emphasize incarceration and increase funding for more effective approaches to crime. The savings from these changes are being reinvested into prevention programs, education, and victim services. Proposition 47 is widely regarded as one of the most impactful, recent approaches to sentencing reform in the country.

RECOMMENDATIONS FOR CHANGE

This report outlines a range of dynamics that allow Oregon's district attorneys to remain relatively unchallenged in their adamant defense of the criminal justice status quo. But these dynamics are not irreversible. Change is possible. More and more people in Oregon and around the country are beginning to pay attention to the ways prosecutors impede needed reforms and the way stagnant electoral engagement sustains the current situation. Increased understanding of the problem is a good start, but more needs to be done and responsibility for change needs to be shared among a number of stakeholders, including concerned voters.

What follows are some initial recommendations of strategies that could make a real difference.

1. Focused public education about the role of prosecutors and district attorneys.

People mostly don't know who their DA is or what they do, which is an alarming dynamic given how much influence DAs have over the criminal justice system. What happens in our justice system and who controls it shouldn't be a mystery. Thousands of people's lives are at stake and millions of taxpayer dollars.

Reform advocates should engage in dedicated public education campaigns about the role of district attorneys, the ability of DAs to either exacerbate or help solve problems in the criminal justice

system, and the potential for voters to have an impact.

2. A new culture of engagement and accountability between voters and district attorneys.

In Oregon, DAs are elected leaders, but you might not ever know that by how inaccessible they are. Aside from the occasional City Club event or a business association meeting, DAs remain largely unavailable to the public, especially when compared to elected lawmakers.

State legislators know that their job is fundamentally about listening to their constituents and hearing community concerns. After all, that's what democracy is about. They regularly hold town halls or designate a Saturday a month at a local coffee shop for people to engage with them. And the public understands and often exercises their right to engage legislators around issues they care about outside of those predeveloped opportunities. It is common for voters to email or call legislative offices to ask for action on a particular issue, and voters expect a response even if the substance is not what they want to hear. It's democracy in action.

Voters should not abdicate their responsibility to push for accountability and engagement. Community organizing efforts need to engage DAs as elected leaders who should be held accountable for constituent concerns. Advocacy

groups can engage in tried and tested strategies like organizing candidate forums and developing report cards for public education and accountability purposes.

An important note for advocacy and community groups:

Diverse, broad coalitions need to stand together to thoughtfully engage DAs as elected leaders. DAs have an immense level of power over people whose friends or family members are directly impacted by the justice system. Community groups need to be very conscious about these power dynamics. DA offices suffer from a tremendous lack of transparency, and there are no systems in place to effectively identify and address cases of retaliation in DA offices against people who are raising legitimate concerns. In this context, engaging DAs is very different than engaging legislators. It can be scary and possibly life-altering to critique DAs.¹⁹ Advocacy groups therefore need to build a broad base of allies which includes those who are not justice system-involved and who are less vulnerable to reprisal.

Acknowledging the possibility of reprisals from DAs may seem like it assumes ill-will, but it is not intended to. It would instead be naïve not to acknowledge the possibility of retaliation in a system where there is so little transparency, where there is severe racial disparity, and where instances of law enforcement actually being held accountable for misconduct are few and far between.

3. Cultivation of potential progressive DA candidates.

We won't see more contested races for district attorney until there are more people willing to step up as candidates. We need dedicated attention to identifying and cultivating possible candidates.

This work will not be easy. There is a unique challenge to identifying candidates among people who support forward-thinking reforms. District attorneys are largely seen as barriers to change rather than progressive change agents. Ideal candidates may be hesitant to run if the very nature of the prosecutor position is cast as negative. In this respect, we must simultaneously re-envision the role DAs should be playing for our communities, and focus on the ways in which DAs are capable of playing a positive community role as advocates for smart justice.



4. The governor should appoint DAs who are prepared to modernize and reform the system.

Almost half of existing DAs in Oregon first gained the job by mid-term gubernatorial appointment. This is one of the most important public safety and justice-related roles the governor has. Criminal justice advocates should focus on this process to ensure that DAs are appointed who will institute much-needed reforms to the system.

The appointment process needs the time and outreach necessary to ensure that a robust pool of candidates can emerge. To accomplish this, the governor should lift the selection process out of secrecy and develop criteria that promotes progressive candidates. For example, the governor should ask questions like:

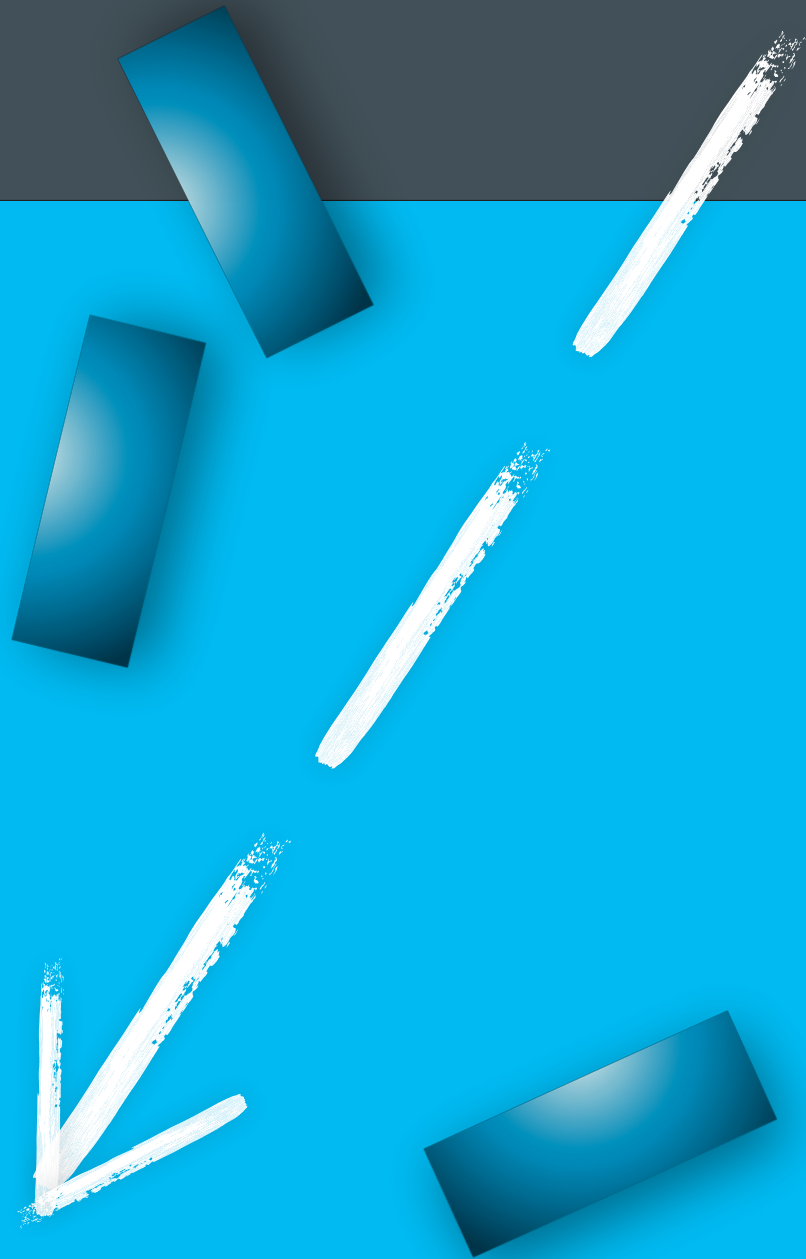
- > Which candidates are open to reforming Oregon's outdated, one-size-fits-all mandatory minimums?
- > Do they understand the extensive national research that supports keeping youth in the juvenile justice system rather than charging them as adults?
- > What about the candidates' background suggests they can effectively address issues of racial disparity?
- > Are they open to engaging in thoughtful pre-trial reforms to reduce the number of people needlessly jailed while awaiting court proceedings?
- > Do they have a complex understanding of how to address the complicated social problems that impact crime beyond the role of prosecution?
- > Which candidates are best positioned to develop effective and multi-faceted community partnerships?
- > Will they support statewide policy efforts needed to reduce Oregon's overreliance on incarceration?

CONCLUSION

There is a growing national consensus that America's criminal justice system has core problems that need to be addressed. We lead the world in the use of incarceration, while prisons are the most expensive and least effective public safety intervention. Despite the increased media coverage to the deeply troubling issues within our criminal justice system, the role of district attorneys as arguably the most powerful actors within the system gets little attention. It is hard to imagine we will significantly and sustainably make our approach to public safety and crime more effective and more just until we see a different kind of engagement from and with district attorneys.

District attorneys need to be advocates for change, but high levels of job security rarely motivate innovation or reform. Voters should engage DAs like the elected officials they are and call for transparency and action around key community concerns. Advocacy groups should begin to remove the veil shrouding prosecutorial practices and roles, while the governor also has a huge role to play, given that almost half of Oregon's DAs first enter that role through gubernatorial appointment.

Whether or not we collectively build greater prosecutorial accountability and public engagement with district attorneys may be the decisive factor in whether vexing problems in our criminal justice system get solved.



CONTESTED DISTRICT ATTORNEY RACES FROM 2004-2014 AND THE UNDERVOTE BY COUNTY

COUNTY	TOTAL ELECTION VOTES	TOTAL VOTES CAST IN DA RACES	# OF CONTESTED DA RACES FROM 2004-2014	% OF UNDERVOTES IN DA RACES
Baker	16,800	12,578	0	25%
Benton	76,680	49,444	0	36%
Clackamas	283,150	156,068	0	45%
Clatsop	29,029	20,089	0	31%
Columbia	36,423	22,148	0	39%
Coos	58,176	40,838	0	30%
Crook	16,849	12,872	1	24%
Curry	22,366	14,389	0	36%
Deschutes	112,325	92,275	2	18%
Douglas	109,004	73,626	1	32%
Gilliam	2,298	1,918	1	17%
Grant	7,387	6,259	2	15%
Harney	7,230	5,580	0	23%
Hood River	19,524	14,366	1	26%
Jackson	145,117	104,813	1	28%
Jefferson	13,744	8,835	0	36%
Josephine	75,464	45,184	0	40%
Klamath	45,393	37,393	2	18%
Lake	7,270	5,578	1	23%
Lane	288,211	169,902	0	41%
Lincoln	62,246	49,140	2	21%
Linn	71,528	45,406	0	37%
Malheur	19,559	15,635	1	20%
Marion	267,147	176,577	0	34%
Morrow	7,131	5,843	2	18%
Multnomah	563,918	306,292	0	46%
Polk	54,051	41,348	2	24%
Sherman	2,019	1,772	1	12%
Tillamook	20,602	12,820	0	38%
Umatilla	39,318	26,128	0	34%
Union	33,856	23,741	1	30%
Wallowa	8,374	6,888	1	18%
Wasco	18,611	12,211	0	34%
Washington	282,680	146,355	0	48%
Wheeler	2,044	1,781	2	13%
Yamhill	66,384	44,986	0	32%

UNDERVOTE IN DISTRICT ATTORNEY ELECTIONS BY YEAR

YEAR	DA RACES	TOTAL ELECTION VOTES	# VOTED ON DA	# DIDN'T VOTE ON DA	% DIDN'T VOTE ON DA
2004	22	623,908	407,820	216,088	35%
2006	15	321,216	205,191	116,025	36%
2008	24	864,529	510,686	353,843	41%
2010	12	257,835	169,505	88,330	34%
2012	24	571,786	358,818	212,968	37%
2014	14	252,634	159,058	93,576	37%
TOTALS	111	2,891,908	1,811,076	1,080,830	37%

COUNTY	NAME	WAS DEPUTY	INITIALLY APPOINTED/ELECTED	TERM ENDS
Baker	Matthew Shirtcliff	Yes	Elected	2016
Benton	John Haroldson	Yes	Appointed	2016
Clackamas	John Foote	Yes	Elected	2016
Clatsop	Josh Marquis	Yes	Appointed	2018
Columbia	Steve Atchison	Yes	Appointed	2018
Coos	Paul Frasier	Yes	Appointed	2016
Crook	Daina Vitolins	Yes	Elected	2016
Curry	Everett Dial	Yes	Appointed	2016
Deschutes	John Hummel	No	Elected	2018
Douglas	Rick Wesenberg	Yes	Appointed	2016
Gilliam	Marion Weatherford	Yes	Elected	2018
Grant	Jim Carpenter	No	Elected	2018
Harney	Timothy Colahan	Yes	Elected	2016
Hood River	John Sewell	Yes	Elected	2016
Jackson	Beth Heckert	Yes	Elected	2016
Jefferson	Steven Leriche	Yes	Elected	2016
Josephine	Ryan Mulkins	Yes	Appointed	2016
Klamath	Rob Patridge	Yes	Appointed	2018
Lake	Ulys Stapleton	Yes	Appointed	2016
Lane	Patricia Perlow	Yes	Appointed	2016
Lincoln	Michelle Branam	Yes	Appointed	2018
Linn	Douglas Marteeny	Yes	Elected	2016
Malheur	Daniel Norris	Yes	Appointed	2016
Marion	Walt Beglau	Yes	Appointed	2018
Morrow	Justin Nelson	Yes	Elected	2018
Multnomah	Rod Underhill	Yes	Elected	2016
Polk	Aaron Felton	Yes	Elected	2016
Sherman	Wade McLeod	Yes	Elected	2018
Tillamook	William Porter	Yes	Elected	2018
Umatilla	Daniel Primus	Yes	Appointed	2016
Union	Kelsie McDaniel	Yes	Appointed	2018
Wallowa	Mona Williams	No	Elected	2018
Wasco	Eric Nisley	Yes	Appointed	2016
Washington	Bob Hermann	Yes	Elected	2018
Wheeler	Daniel Ousley	No	Appointed	2016
Yamhill	Bradley Berry	Yes	Elected	2016

METHODOLOGY

Each of Oregon's 36 counties has a district attorney. District attorneys are elected positions who serve four-year terms with no limits on the number of terms served. When a district attorney position is vacant, for any reason, the governor has the authority to appoint a replacement to serve until the next election. District attorneys are non-partisan positions.

Elections for district attorneys are staggered throughout the state so that every district attorney position is not up for election in the same year. District attorneys races occur in even-numbered years with candidates appearing on the May primary ballot. In a contested race, a candidate who receives more than 50% of the votes cast in the May election is elected to the position. If a candidate in a contested election does not achieve more than 50%, then a run-off election between the top two vote-getters occurs in the November general election. If a district attorney race is uncontested, the sole candidate wins the office in the May primary election regardless of the percentage of votes received.

We wanted to learn how often district attorneys run for office unopposed. We also wanted to know if there was a significant undervote in district attorney elections. An undervote occurs when a voter casts votes in some candidate races on a ballot but does not cast a vote in all candidate races.

The results of county elections, including district attorney races, can be found at each county website and at the website of the Elections Division of the Oregon Secretary of State. The data provided on some county websites was not uniformly presented in comparison to other counties and sometimes the data was not updated after a final election count or recount. For these reasons, we chose to use the data

found on the Secretary of State website. The Secretary of State website provides election data as far back as 2004.

To determine the undervote, we compared the total number of voters casting votes in a specific election to the total votes cast in the district attorney race. When the votes cast for district attorney are fewer than the greatest number of votes cast for other candidate races in the same election, this difference is the undervote.

We did not find a single table of elections results that contained the numbers we needed to make these comparisons. So we compiled specific election results from the Secretary of State's election history website into a table that allowed us to calculate the years and elections which had district attorney races and in which counties. We determined whether each district attorney race was contested or not. We compiled the total number of votes cast in a county and the number of votes cast in the district attorney race to determine the statewide and county-specific number and percentage of undervotes in each district attorney race. We also compared undervotes in contested and uncontested races.

We were also interested in determining how many current district attorneys were first appointed by the governor and how often a district attorney was formerly a deputy DA before assuming the lead role of district attorney. We used the Guide to Oregon Counties, press releases from the offices of the Governor and Secretary of State, and news articles to identify which district attorneys were first appointed to fill vacancies in the past 10 years versus those initially elected to office within the same timeframe. We used a similar set of sources to research employment history and background of current DAs.

SOURCES

ELECTION DATA

2004

Primary Election

For DA Votes

<http://sos.oregon.gov/elections/Documents/results/results-5-2004-nonpartisan.pdf>

For Total Number of Election Votes Cast (Page 6)

<http://sos.oregon.gov/elections/Documents/statistics/participation-stats-5-2004.pdf>

2006 General Election

For DA Votes

<http://sos.oregon.gov/elections/Documents/results/results-11-2006.pdf>

For Total Number of Election Votes Cast (Page 6)

<http://sos.oregon.gov/elections/Documents/statistics/participation-stats-11-2006.pdf>

2006 Primary Election

For DA Votes

<http://sos.oregon.gov/elections/Documents/results/results-5-2006.pdf>

For Total Number of Election Votes Cast

<http://sos.oregon.gov/elections/Documents/statistics/participation-stats-5-2006.pdf>

2008 General Election

For DA Votes

<http://sos.oregon.gov/elections/Documents/results/results-11-2008.pdf>

For Total Number of Election Votes Cast

<http://sos.oregon.gov/elections/Documents/statistics/participation-stats-11-2008.pdf>

2008 Primary Election

For DA Votes

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For Total Number of Election Votes Cast

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2010 Primary Election

For DA Votes

<http://sos.oregon.gov/elections/Documents/results/results-5-2010.pdf>

For Total Number of Election Votes Cast

<http://sos.oregon.gov/elections/Documents/statistics/participation-stats-5-2010.pdf>

2012 Primary Election

For DA Votes

<http://sos.oregon.gov/elections/Documents/results/results-5-2012.pdf>

For Total Number of Election Votes Cast

<http://sos.oregon.gov/elections/Documents/statistics/participation-stats-5-2012.pdf>

2014 General Election

For DA Votes

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<http://sos.oregon.gov/elections/Documents/results/results-2014-general-election.pdf>

For Total Number of Election Votes Cast

<http://sos.oregon.gov/elections/Documents/statistics/participation-stats-11-2014.pdf>

2014 Primary Election

For DA Votes

<http://sos.oregon.gov/elections/Documents/results/may-primary-2014.pdf>

For Total Number of Election Votes Cast

<http://sos.oregon.gov/elections/Documents/statistics/may-2014-voter-participation.pdf>

OVERARCHING BACKGROUND ON DAs

Oregon Department of Justice's List of Current State District Attorneys:

http://www.doj.state.or.us/crimev/cvr/pdf/da_list.pdf

Oregon Secretary of State's List of Election Dates for Current District Attorneys:

http://sos.oregon.gov/elections/Documents/district_attorneys.pdf

Access to Historical State Voter Pamphlets:

http://library.state.or.us/databases/subjects/Voters_Pamphlet.php

Sample Guide to Oregon Counties with Appointed/Elected Years:

<http://oregoncounties.org/news/publications/guide-to-oregon-counties/>

https://drive.google.com/file/d/0B4bfnUJ9POS_V1daUnQ0cFZ0bVU/view

END NOTES

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