

BUILDING JUSTICE IN MoCo

What the State's Attorney Does and What Must Change

THE CURRENT PROBLEM

Montgomery County State's Attorney is not a reform prosecutor. He is a status quo prosecutor who has implemented the most modest of reforms during his tenure and relied on the fact that our County has low crime rates to appear as if he runs an office with progressive policies.

- He is not a member of reform-minded prosecutor organizations.
- He has done no work with groups like the VERA Institute for Justice to learn how to enact meaningful reforms.
- He rarely supports criminal justice reform legislation in the state house. While he recently gave his blessing to a bill to eliminate life without parole for juveniles, he privately told advocates that he likes keeping the law on the books to use as a bargaining chip in plea negotiations.

Montgomery County State's Attorney's prosecution practices perpetuate the criminalization of people of color.

- In May of 2020, the County jail population was 54% Black, compared to 18% of our County's population.
- Between 2011 and 2020, Youth of Color comprised 90% of our detained juvenile population and 100% of our juveniles charged as adults. See <https://drive.google.com/file/d/1-BeuAAMeB-naovKydwABPNU3SCVph7g7/view>.
- Directly related to these disparities is that the State's Attorney's office does not reflect the diversity of the community; there are no people of color supervising trial attorneys or in the top ranks (with the exception of his Community Outreach Officer, who does not supervise attorneys). It is only because the State's Attorney is being challenged at reelection that he has decided to commission a study to examine racial bias in his office.

ONE SOLUTION

Montgomery County needs a State's Attorney who will advocate for, and institute meaningful criminal justice reforms. The next State's Attorney should be a leader in statewide reform efforts and must join the 100 former and current prosecutors who asked the Biden administration to support local prosecutors in making the justice system less punishing and more equitable. (See <https://fairandjustprosecution.org/wp-content/uploads/2021/08/FJP-Letter-21st-Century-Prosecution-Task-Force.pdf>)

Montgomery County needs a State's Attorney who will ensure ethics, accountability, and make public safety collaborative and transparent. See https://www.brennancenter.org/sites/default/files/2019-08/Report_21st_century_prosecutor.pdf. The next State's Attorney should:

- Build robust and accessible Conviction Integrity and Sentencing Review Units to implement post-conviction justice and fair sentencing.
- Promote expungements.
- Create a Community Advisory Board that will:
 - Conduct its work subject to the Maryland Open Meetings Act
 - Consist of broad and diverse stakeholders, including crime victims, formerly incarcerated persons, public defenders, prosecutors, community leaders, and civil rights advocates
 - Educate the community about the rates at which offenses are prosecuted (or not), the outcomes of cases, and the demographics of those prosecuted
 - Allow opportunities for the community to express its concerns

Montgomery County State's Attorney has kept courtrooms and jails filled with our most vulnerable.

- In addition to immigrants, our misdemeanor courtrooms are filled with people with mental illness and housing insecurity.
- The office regularly prosecutes low level offenses such as trespass, urinating in public, and disorderly conduct.
- He claims not to prosecute criminal marijuana possession, but continues to charge those cases and people must pay \$100 to get them dismissed.
- He has publicly stated his belief that pretrial detention is a preferred alternative to release for defendants who are homeless.
- Diversion programs too often are not available to those without means, both because they typically cost money to participate and because the entry process for the programs may require lawyering that is beyond what is available to those without means. The office insists that defendants do all community service through the County's Alternative Community Service program, which costs \$175; refusing to accept proof of privately arranged, no-cost, community service options.

Montgomery County needs a State's Attorney who will decriminalize homelessness and mental illness and remove money from the justice process. The next State's Attorney should:

- End incarceration for misdemeanor theft, public urination, disorderly conduct, and trespass.
- Direct law enforcement officers to issue citations, rather than make arrests
- Avoid charging these offenses and prioritize diversion when charged
- Not oppose release on the basis of housing instability or homelessness
- End payments to participate in diversion programs
- End financial conditions of release; no cash bail or fee-based supervision costs

Montgomery County State's Attorney's policies and practices harm immigrants.

- Defense attorneys report having to battle the State's Attorney to avoid immigration consequences in plea negotiations.
- His office pushes back against attempts to vacate prior convictions that have unintended immigration consequences.
- He is the reason why Montgomery County has the most conservative deportation defense funding program in the region. (See, e.g., <https://wearecasa.org/activists-condemn-states-attorney-for-fighting-against-access-to-representation-in-montgomery-county/>)

Montgomery County needs a State's Attorney who will protect immigrant communities. Our State's Attorney should be in agreement with other jurisdictions that have implemented specific policies to encourage and train prosecutors to consider the immigration consequences of criminal contacts.

- **Baltimore City** – <https://www.stattorney.org/media-center/press-releases/1222-states-attorney-marilyn-mosby-instructs-her-office-to-strongly-consider-prosecutorial-discretion-for-cases-involving-immigrant-defendants-witnesses-and-victims>
- **Philadelphia** – <https://www.thedp.com/article/2018/01/larry-krasner-philadelphia-district-attorney-immigration-protection-trump-counsel-rights-criminal-justice>
- **Brooklyn** – <http://www.brooklynnda.org/2017/04/24/acting-brooklyn-district-attorney-eric-gonzalez-announces-new-policy-regarding-handling-of-cases-against-non-citizen-defendants/>

“You have to train people, re-educate them, and change the culture so that people understand their job is not to obtain convictions. Their job is to seek justice.”

— STATE ATTORNEY ANDREW WARREN, 13TH JUDICIAL CIRCUIT (TAMPA, FL)