

Honolulu Prosecutorial Candidate Survey

All candidates for the 2020 race for Honolulu Prosecutor received a request to complete this questionnaire, created by the ACLU of Hawaii's Campaign for Smart Justice Hawai'i. The Smart Justice campaign is an initiative focused on reducing mass incarceration by fifty percent while tackling the racial disparities in the criminal legal system. Learn more at www.aclu.org/smartjustice.

The questionnaire consists of 17 questions total; 16 Yes/No questions and one free form question on COVID-19. Where neither "Yes" nor "No" is selected, the response was recorded as "Did Not Respond." Responses were recorded on May 15th, 2020

Question 1. Do you think Hawai'i relies too heavily on incarceration?

Steve Alm – Yes

Criminal justice system policies should be based on data and research and not on "gut feelings," hearsay, or "We've always done it this way." I think many policy makers in Hawaii have recognized that and have recently made several statutory changes to reduce incarceration. This is being smart on crime. These include eliminating the methamphetamine trafficking charge with its mandatory 10 year prison sentence for distributing ANY amount of methamphetamine, eliminating the Repeat Offender mandatory prison/mandatory minimum for possession of a small amount of drugs (Promoting a Dangerous Drug in the Third Degree), and raising the felony theft threshold from \$300 to \$750 (to keep up with inflation). Now, regarding those drug crimes, the courts have the discretion to either place the defendant on probation or send him or her to prison. We also now have proven supervision strategies such as Drug Court, Mental Health Court, and HOPE Probation that have been shown by research that compared to regular probation, help people better succeed on pre-trial, probation, and parole and avoid going back to prison. Research is clear that substance abuse treatment is more effective when done in the community rather than in prison (where the environment is too artificial). As judges and probation officers become more aware of such research they can use it to help guide their sentencing decisions. These strategies should be used to the greatest extent possible which will further reduce the incarcerated population. One additional sentencing option that could reduce incarceration is found in HRS Sec. 706-660. For most Class B and C felonies, if a judge decides to send the defendant to prison, instead of having to give the maximum 10 or 5 year sentence in all cases, the judge can fashion the sentence to fit the case. For Class B felonies, the judge can now set the maximum at ten years or fewer but not fewer than five years, and for Class C felonies five years or fewer but not fewer than one year. This statute is not being frequently used by Hawaii judges but as they become more aware of research in this area it may well be used more often.

RJ Brown – Yes

It isn't just Hawaii that relies too heavily on incarceration. This is a national failure. Yes, jails and prisons are a necessary component of criminal justice. There always have been, and always will be, people that need to be confined either because punishment is warranted or because they constitute continuing threats to our community. But the reality is that good, decent, law-abiding citizens are made less safe when confinement becomes our first resort in fighting crime. This is because prisons, by their nature, do very little to rehabilitate inmates. And those that serve their time end up re-entering society with fewer prospects and less incentive to change their ways. By predominantly relying on incarceration, for all offenses, we do little more than provide the appearance of safety. What may feel right and just in the moment is actually producing a greater threat to all of us in the future. For those that we can help – for example, non-violent addicts and individuals suffering from mental health issues – we must do what we can to keep them out of our jails and prisons. This isn't just morally correct in the sense that we all maintain that internal compass directing us to be useful, kind, and understanding to the extent of our individual limits. But it is, perhaps even more importantly, a practical effort to prevent today's drug user from becoming tomorrow's thief; tomorrow's thief from becoming next week's burglar; next week's burglar from becoming next month's violent offender. Let's stop pretending that incarceration is the only way to make a safer society. It is just one piece of a large and complicated puzzle that, in many cases, is doing far more harm than good. The time has come to set aside the tired mantra of being "tough on crime," and replace that mindset with a new motto: let's be smart on crime

Jacquie Esser – Yes

We rely on incarceration to solve issues related to poverty, mental illness and substance abuse which only serves to make vulnerable people less stable. Instead of incarceration, we need to divert low-level offenses that are a direct manifestation of addiction, homelessness, mental illness, poverty, or youth out of the criminal legal system and into community-based services.

Megan Kau – No

The first part of my answer is that incarceration must be relied upon within the criminal justice system. Incarceration is an alternative to treatment, which is always the better solution. But the challenge is that very often a drug user will not get treatment unless he/she is forced to do so. Therefore, in order to get treatment, a

defendant has two choices: either (1) get treatment on his/her own; or (2) get forced into treatment with the threat of incarceration. If a defendant refuses to get treatment, he/she must be incarcerated. The second part of my answer is that this question is better directed at the corrections division: the Department of Public Safety. The criminal justice system works when all phases of the system are operating as required. Police police. Prosecutors prosecute. Judges judge. And the corrections department corrects. Rehabilitation is key here. Hawai'i's correction system could be improved by adding more room, more rehabilitation, more recovery programs, more skill building programs, and more transitional programs that take an inmate from the corrections system and reacquaints him/her with society. As the prosecutor, I would advocate for this; however, my role as prosecutor in the criminal justice system is to prosecute.

Tae Kim – Yes

Under the current law enforcement system, very little attention is given to prevention and everything is a reaction to crimes after its been committed. Just arrest and prosecute the offenders and lock them up, without any future considerations because sooner or later, the offenders will re-join our communities. If public safety matters to us all, all of us must act to prevent crimes. Unfortunately, people are not informed, therefore we must inform and educate the public. We must invest more on prevention because incarceration is not the answer.

[Question 2. Do you think Hawaii's jails are overcrowded?](#)

Steve Alm – Yes

A review of the Public Safety Department's statistics clearly shows that our four jails statewide are seriously overcrowded [Note that at this time, 5/15/20, the jail numbers are now, at least temporarily, being reduced due to the coronavirus crisis.] Overcrowded jails are unsanitary and dangerous. There are good reasons why there are capacity limits set for our jails (and prisons). It is to keep inmates and staff safe and allow the institution to operate in an orderly manner.

RJ Brown – Yes

Jacquie Esser – Yes

Published data by the Department of Public Safety clearly shows that the Hawaii Community Correctional Center, the Maui Community Correctional Center, and the Oahu Community Correctional Center are chronically overcrowded.

Megan Kau – No position taken

Tae Kim – Yes

I have visited every prison facility in the State of Hawaii for the past 28 years and it's evident that it's getting more and more crowded. In fact, more and more inmates are being sent to mainland facilities every year due to lack of prison space in Hawaii. We must invest much more in rehabilitation and prevention because incarceration has not and is not working to keep our communities safe.

Question 3. Do you have a specific decarceration goal?

Steve Alm – Yes

Ideally, the jail (and prison) population should be as low as possible consistent with the twin overriding goals of treating people fairly and protecting public safety. There are many strategies we can use to reduce the jail and prison populations. The first is replacing the current cash bail system with one that allows for alternatives such as release on recognizance, a signature bond, or supervision by the jail's Intake Service Center. A good model for this type of approach is the Washington, DC Pretrial Services Agency. Most defendants in DC are released pending trial and the Pretrial Services Agency provides them with programs, counseling, and appropriate supervision, and the vast majority appear for their court dates and don't commit new crimes. Given that the pretrial population in DC is more violent and dangerous than the pretrial population in Hawaii, I believe the Pretrial Services Agency model can be a good one for us to follow. Second, I would expand the use of proven community-based strategies like Drug Court, Mental Health Court, and HOPE Probation to help defendants deal with their substance abuse and/or mental health issues while succeeding on probation and avoiding going to prison. Using swift, certain, consistent and proportionate jail sanctions is a critical part of the HOPE model. This is not punishment for its own sake. These jail sanctions teach accountability (adult choices have consequences) and provide the needed leverage so that probationers keep their appointments with their probation officers, reduce their drug use, attend and persevere in treatment, etc. Research has found that those in HOPE Probation compared to regular probation were arrested for new crimes 55% less often and failed at probation and served or were sentenced

to prison for 48% fewer days. While some might think with its certain and consistent jail sanctions HOPE probation would result in the use of more jail bed bays than regular probation. The researchers studied that and found that the HOPE probationers went to jail more often but for shorter periods (e.g., two days, fifteen days, thirty days). Those on regular probation didn't go to jail as often but were arrested for new crimes much more often and had their probation revoked much more often (usually sitting in jail for ten weeks waiting for their probation revocation hearing). In addition, revoked defendants on regular probation were frequently given a new four year term of probation and six months or a year in jail as a condition of probation (in a jail that offers little in the way of programming or rehabilitation.) As a result, the jail bed days for those in HOPE and in regular probation were found to be the same. Thus, if there were fewer defendants in HOPE, those same defendants would instead be in regular probation and doing just as much jail time. We would also not get the benefit of the 55% fewer new arrests and the half as many sentences to prison that HOPE provides. The HOPE strategy was piloted in the Pretrial context in Honolulu and showed impressive reductions in recidivism and HOPE Pretrial should be instituted along with HOPE Parole. Third, the statutory changes referenced in my answer to question 5 have already reduced the number of people going to prison as well, and have increased public safety. The increased use of HRS section 706-660 referenced in my answer to question #1, above, will also result in reduced incarceration.

RJ Brown – No

While I have put forward my opinion that too many people are incarcerated as clearly as I can, I will not, as your Prosecuting Attorney, set any specific goal (at least in the form of a tangible number) relevant to decarceration. If the question is asking me: “Will I move to release X number of prisoners?” The answer is no. I will not make that representation because I don't believe that setting some arbitrary number for the sake of providing the impression that I'm a “progressive” candidate is useful. In fact, I think that any such representation is downright dangerous because once you set a specific goal, in terms of a numeric value, you then have an obligation to meet that goal regardless of its wisdom. That said, I will, if elected, implement policies within the Department of the Prosecuting Attorney instructing all deputies to seek out and consider alternatives to incarceration for defendants meeting certain criteria. My goal is to create a new environment within the Prosecutor's Office where each deputy operates in a manner consistent with their moral and ethical responsibility, that is, to act as Ministers of Justice. Once it is understood that I will expect and demand each representative of the office to do

what is right – whether that means pursuing incarceration, a diversionary program, or otherwise – there will be a reduction in the number of incarcerated individuals in Honolulu. This is because I have absolute faith that when an office culture is established that emphasizes excellence in practice, individual responsibility for decision-making, the exposure of truth, and the pursuit of genuine and lasting safety, we will see a considerable increase in out-of-the-box thinking to fighting crime, and a corresponding decrease in our prison population.

Jacquie Esser – Yes

The initial goal should be to reduce the population of each facility to its operating capacity, and then reduce further to design capacity.

Megan Kau – No

As Prosecutor, I will prosecute cases to the fullest extent of the law and allow the judge or the jury to determine if a defendant is innocent or guilty. Justice will be served because a defendant who is found not guilty is freed, while a defendant who is found guilty is sentenced to either supervision or a term of imprisonment. The length imprisonment is determined by the court, not the Prosecutor.

Tae Kim – Yes

By promoting prevention and rehabilitation. Prevention is two fold, before a crime gets committed and working towards preventing repeat offenses with rehabilitations. One of my primary agenda as the prosecutor is to regularly engage with the people in our communities, attending neighborhood meetings and holding open houses at the prosecutors office. To inform and educate the people the need for prevention and rehabilitation instead of incarceration. Turning blind eyes will blind us.

Question 4. Do you agree with expanding the use of diversion programs?

Steve Alm – Yes

If certain defendants can be safely supervised in the community without getting a criminal record, that is a goal worth pursuing. The challenge will be to identify appropriate charges and defendants and meaningful programs and interventions. In addition, the criteria for getting a deferred acceptance of a guilty or no contest plea (in order to keep it off their records) should be expanded so a person may have the opportunity for a deferral for a felony charge, if a judge approves in a specific case,

if they have already gotten a deferral for a misdemeanor. Presently, if an individual has received a deferral for a misdemeanor, they are not eligible for another deferral for a felony charge.

RJ Brown – Yes

Jacquie Esser – Yes

I will stop using our jail as an ineffective treatment facility for substance use addiction or mental health treatment. Our office will not use our limited resources to prosecute homelessness, crimes of poverty, and substance use addiction and instead divert to treatment and social service agencies to provide wrap around services. When services are insufficient to meet public health and safety needs, specialty Courts, such as the Mental Health Court, Drug Court, and Veterans Court will be utilized.

Megan Kau – Yes

When faced with the option of treatment versus incarceration, treatment is always the better path. Unfortunately, a defendant is not always willing to get treatment. In that case, the defendant must be incarcerated. If the defendant is open to treatment, then programs like LEAD and Habilitat should be utilized. I fully support those programs and others like them.

Tae Kim – Yes

We as a society must invest in rehabilitation programs and to remedy the criminal behaviors. Although I do not believe in affording offenders unlimited chances or allow the offenders to dictate when they'll change their behaviors, we must afford everyone an opportunity to succeed. IT'S NOT ALL ABOUT CONVICTIONS. IT'S ABOUT JUSTICE AND FAIRNESS. We are in this together.

[Question 5. Do you commit to being a vocal advocate for criminal legal reform at the Capitol?](#)

Steve Alm – Yes

During my entire career, I have been a vocal advocate for criminal justice reform at the State Legislature (and the City Council) to make our legal system more effective and more equitable, for victims, defendants, and the public. The criminal justice system in Hawaii is complex and interconnected and involves all three branches of government. In order to effect real, substantive change, you have to have a spirit of

collaboration and a recognition that a change to one part of the system leads to consequences in other parts of the system. I have been a vocal and effective advocate for change in the legal system at the State Legislature, the City Council, and the United States Congress in several areas: As a deputy prosecutor, I advocated to make Manslaughter a Class A felony, punishable by 20 years in prison, instead of the then 10 year maximum prison term. This was primarily so perpetrators of domestic violence homicide would be appropriately punished if they were convicted of Manslaughter, instead of murder. This was most frequently an issue when the perpetrator of a domestic violence homicide killed their spouse, partner or relative. As the United States Attorney, I led the Weed & Seed initiative which reduced crime in Kalihi-Palama and Chinatown by over 70% in 3 years. Felonies dropped from 3,041 down to 746 and misdemeanors from 7,686 down to 2,346. While the federal government initially funded Weed & Seed, when the funding ended, the City and the City Council stepped in to provide funding. As a Circuit Court Judge, I partnered with Honolulu Probation, and the other criminal justice partners, to create HOPE Probation in 2004. We started with zero extra funding, just a willingness by all the parties to try to make our probation system more effective and fair. HOPE is a strategy that encourages and assists probationers to succeed on probation by changing their thinking to change their behavior. Research has shown that those in HOPE, when compared to a control group on regular felony probation, were arrested for new crimes 55% less often, tested positive for drugs 72% less often, and failed probation and went to prison 48% less often. While Native Hawaiians had their probation revoked and were sent to prison (Halawa, Arizona or WCCC) 26% of the time on regular felony probation, the rate on HOPE Probation was only 15%. Seeing that we had come up with a better and proven way to work with probationers, we approached the Hawaii Legislature in 2006 for funding to really expand the HOPE strategy. They provided 1.2 million dollars to fund HOPE's expansion and that funding was added to the Judiciary budget and continues to this day. Most of the funding is used to pay for additional drug treatment slots and also to hire additional probation officers and drug testers. In 2005 and 2015, I chaired the twenty-nine member Penal Code Review Committee. In 2015, we made 84 recommendations for statutory changes to the penal code to the State Legislature. I represented the Committee at the 2006 Legislature, frequently alongside the Honolulu Prosecutor, who spoke in opposition to many of the suggested changes. All 84 recommended changes were adopted and became effective on July 1, 2006. These included eliminating the mandatory 10 year prison term for distributing ANY amount of methamphetamine (typically a \$20 bag of meth) and eliminating the Repeat Offender mandatory prison/mandatory minimum for possession of a small amount of drugs (now giving the judge the

discretion to impose a prison or probationary term for these drug charges based on the facts of the individual case, the defendant's record, etc). We also recommended raising the felony theft threshold from \$300 to \$750 (to reflect the current cost of living since the threshold was last set in the 80's), and removed restrictions for entry into the specialty courts (Drug Court, Veteran's Court, and Mental Health Court).

RJ Brown – Yes

Jacquie Esser – Yes

Our office will use its lobbying power to champion systemic reforms - even those outside of our direct purview - including sentencing reform, more resources to public defenders, probation and parole reform, prison reform, and increasing the jurisdiction of family court to the age of 21 years old.

Megan Kau – Yes

It depends on “criminal legal reform” is defined. I am against lowering the penalty for drug possession of less than 2 grams. Drugs are the root cause of most of the criminal activity. As such, we should not lower the penalty for possessing drugs. It should remain a felony offense. If we continue to lower the penalties for these offenses, no defendant will be held accountable long enough to get meaningful treatment.

Tae Kim – Yes

I believe that one of the most important duty for any prosecutor is to work towards safer, more informed and stronger communities. I will not be complacent with the current legal system, obviously it's not working well for most of us. We must stand and work together to improve the system that promotes public safety for all of us, including the offenders and victims.

[Question 6. Do you acknowledge there is implicit bias in the criminal legal system in Hawaii?](#)

Steve Alm – Yes

As human beings we are all affected by our life experiences and upbringing which leave us with certain biases and preconceptions. Some we may be aware of, and some we may not. As a judge, I participated in implicit bias training and thought it

was valuable and useful. This type of training would be appropriate for anyone working in the criminal justice system including all deputy prosecutors.

RJ Brown – No

I'm responding "no" to this question because I take issue with how it is set up. What you're really asking is, "Do I agree that the American criminal justice system (and our form of government, generally) is inherently racist, fundamentally flawed, and in need of immediate and radical reform to remedy our history of injustice?" Respectfully, this is not a "yes" or "no" kind of question. But I'll try to answer to the best of my ability insofar as I understand the question. Yes, I believe that each of us maintain biases in how we interact with the world and each other. These biases are formed throughout our experiences, our upbringing, our genetics, etc. I also, of course, acknowledge that the American story is deeply complicated and unfortunately rooted, and shaped by, profoundly disturbing racial conflicts and other divisions. But all that said, I also love my country, deeply, and admire what it has historically stood for and, God willing, may continue to represent. I do not subscribe, in any way whatsoever, to the narrative that America is evil, or so corrupt as to be beyond repair. I am not able to join, and will in fact fight against, those individuals who endeavor to upend every American institution on the grounds that our history is imperfect. We are a nation of good, kind, brave and abundantly generous people, situated on both the left and right of the political spectrum. For all her flaws, the American system and way of life continues to inspire, albeit perhaps not to a degree as it once did. This is all to say that, yes, I acknowledge there is implicit bias in the criminal legal system in Hawai'i, just as implicit biases invade every other aspect of life. But insofar as I suspect you view these biases as inherently destructive, and emblematic of a broken system, I don't maintain the same perspective. By and large, the representatives I worked with when I practiced as a prosecutor – fellow deputies, public defenders, private attorneys, judges, court staff – these were people committed to doing their best to achieve right outcomes despite their biases. These were people trying, every day, to help others. Did we succeed at every turn? No, we did not. Mistakes were made and will continue to be made. But the intent behind the actions was almost universally correct. Is it my "whiteness" or "maleness" or "Americanness" or "economic-statusness" or "[insert apparently negative quality]-ness" that has shaped my views here. I suppose so. But whatever qualities I may have, or not have, are subservient, in my mind, to what really matters: my conduct. To that end, all I can promise is that I am elected to serve as the next Prosecuting Attorney for the City and County of Honolulu, I will do right, as best I can, every day. I will

govern the affairs of the office in a manner that is blind to race, religion, sexuality, gender, nationality, and any other quality that has nothing to do with expectations regarding how we treat each other in a civilized society. What matters to me is whether, regardless of your circumstances, you've chosen to hurt others to advance yourself. Are you stealing? Are you violent? Are you a predator? Is confinement necessary? Can we get you help? Has justice been served? These are the questions I will concern myself with because these are the questions that should matter to an elected prosecutor.

Jacque Esser – Yes

Yes, implicit bias exists at every stage of the criminal legal system. I will address this through transparency, implicit bias training, and blind charging policies.

Megan Kau – No

It depends on how “implicit bias” is defined. If that term means that law enforcement somehow targets a certain race, sex, age, sexual orientation, or other, then my answer is no. I do not believe that law enforcement targets a certain race, sex, age, sexual orientation, or other. However, I do acknowledge that there are socio-economic issues in our community, just as there are in other societies. The Prosecutor is not in a position to fix these societal issues. The Prosecutor's role is to objectively apply the criminal law to anyone that violates the law.

Tae Kim – Yes

I believe that there is implicit bias in every system, including the criminal legal system in Hawaii. I don't see how implicit bias can be avoided with human beings from so many diverse culture and life experiences. But we must recognize our differences and learn to accept and understand individual fact and circumstances. We must be open minded and keep a positive attitude. Our attitude defines us.

[Question 7. Do you acknowledge that systemic racism exists in the criminal legal system in Hawaii?](#)

Steve Alm – Yes

Systemic racism doesn't mean that everyone in the criminal justice system is a racist. It means that over the years, the criminal justice system, in spite of many good efforts by people working within it, nevertheless results in disparate outcomes for different races in the system. For example, it can't be disputed that Native

Hawaiians are over-represented in the criminal justice system in Hawaii. There needs to be a lot more research in this area to see why this is the case and what can be done to address it, whether in the legal system or elsewhere.

RJ Brown – No

See 6 above.

Jacquie Esser – Yes

Megan Kau – No

It depends what “systemic racism” means. If it means that law enforcement somehow targets a certain race, then my answer is no. I do not believe that law enforcement targets a certain race when investigating a crime. However, I do acknowledge that there are socio-economic issues in our community, just as there are in other societies. The Prosecutor is not in a position to fix these societal issues. The Prosecutor’s role is to objectively apply the criminal law to anyone that violates the law

Tae Kim – Yes

Even in Hawaii, with all of our diverse ethnicity and culture and make up of so many different minorities, who are actually the majority, I believe that systemic racism exists in the criminal legal system in Hawaii. Whether it's against native Hawaiians or immigrants, we must respect each other and really work towards fairness and justice and equality for all. Yes, it's something we must consciously work at it.

[Question 8. Do you have a clear plan to combat racism in the criminal legal system in Hawaii?](#)

Steve Alm – Yes

First, I will create a culture of Doing Justice and being ethical in the Prosecutor’s Office, not just winning cases. At every stage of the process from arrest to charging, through sentencing, and appeal, we have to ensure that bias, whether conscious or not, does not affect decision-making in the office. Second, I will have all of the deputy prosecutors take implicit bias training. Third, the Honolulu Prosecutor’s Office will support criminal justice initiatives that have been proven to treat people fairly and reduce racial disparities. For example, research has shown that Native Hawaiians in regular felony probation have their probation revoked and are sent to

prison 26% of the time. Conversely, Native Hawaiians in HOPE Probation had a revocation rate of only 15%. HOPE puts Native Hawaiians on an even footing with the other ethnic groups on probation. Given that approximately 2,400 felony probationers are in HOPE Probation at any one time, this has meant that hundreds of Native Hawaiians have succeeded on probation in HOPE and have avoided being sent to prison. Fourth, I will work with various community partners, to learn about any discrimination they see in the criminal justice system, and then work to eliminate it. Fifth, more research needs to be done to see who is not being treated fairly in the legal system and what changes need to be made to treat all people more equitably.

RJ Brown – Yes

I will combat racism by treating people according to their actions, not their race. I don't care about your color, and if I am ever convinced that a deputy has taken a harsher (or more lenient) stance against a defendant on the basis of their color, or heritage, or some other irrelevancy, that deputy will be immediately terminated from their employment.

Jacquie Esser – Yes

Megan Kau – No

This question is misleading and assumes that there is “racism” in the criminal legal system. I do not believe that law enforcement targets a certain race when investigating crimes. However, I do acknowledge that there are socio-economic issues in our community, just as there are in other societies. The Prosecutor is not in a position to fix these societal issues. The Prosecutor's role is to objectively apply the criminal law to anyone that violates the law as it is written, no matter what race the defendant may be. My plan is to fulfill that role. A Prosecutor that chooses which type of race to charge (or not charge) for a criminal offense becomes a corrupt Prosecutor

Tae Kim – Yes

Public forums and education. I believe that education is the foundation for any law enforcement and the criminal legal system in Hawaii or anywhere. To combat racism, I will hold meetings at the prosecutor's office with the deputies and support

staff because we must first recognize that it exists and openly discuss to prevent it. I will hold regular open houses to inform and educate the public.

Question 9. Will you begin race and ethnicity data collection explicitly as it relates to prosecutions?

Steve Alm – Yes

RJ Brown – No

Again, I simply do not subscribe to the view that you eradicate racism by being hyper-focused on race. I'm interested in character, not color.

Jacquie Esser – Yes

Megan Kau – Yes

If the legislature passes a bill to require this then yes, I will follow the law.

Tae Kim – Yes

Without compromising pending investigations, arrests and cases. Including future prosecutions. To assist in identifying the needs for prevention and rehabilitation in a particular race and ethnicity. But, I will uphold the law on everyone. I believe that justice and fairness is and must be blind. We can not and must not treat justice and fairness selectively.

Question 10. Will your office commit to not seeking money bail as a condition of release?

Steve Alm – Yes

The current cash bail system penalizes the poor and rewards those with more assets and provides no supervision for many. If the cash bail system can be replaced by a process that allows for alternatives such as release on recognizance, signature bonds, or appropriate supervision by the Intake Service System or otherwise, then I am in favor of it. This will be a big undertaking and will not be easy. It will have to be a system-wide effort as a change in one part of the system will affect the workings of the other parts. Judges will have to be available for charged individuals to appear before them soon after arrest, and Intake Service Center will have to be expanded and funding will need to be made available to provide for treatment options, and other services for the Pretrial population. The Washington, DC

Pretrial Services Agency is a good model for this. Proven strategies like HOPE Pretrial should be employed to reduce the number of arrests among the pretrial population. Research showed that those in HOPE Pretrial were arrested for a new felony 42% less often than those in the control group on regular pretrial. In addition, those in HOPE Pretrial remained 45% longer on supervised release without a revocation, and were convicted of the instant felony offense 14% less often. This means that fewer people entered the criminal justice system with new charges, fewer people were victimized, and fewer people ended up on probation or were sent to prison.

RJ Brown – Yes

If elected to serve as the next Prosecuting Attorney, I will work toward the minimization of cash bail in favor of risk assessments. This process will take time to achieve and will require detailed consideration to come up with the best practices, but it will be a priority. We cannot punish people for being poor, and my administration will work to eliminate this.

Jacquie Esser – Yes

Megan Kau – No

Bail is an amount that a defendant must pay so he/she can get out of jail pending trial. Once it is paid, the person is released from custody. Bail can be paid either by 1) paying the amount in cash; or 2) having a bond company post a bond. Bail is needed to ensure that the defendant will appear in court and that he/she will not commit another crime. Currently, Honolulu is not set up to monitor several defendants who have not paid a bail amount. The December 2018 Hawai`i Criminal Pretrial Reform Recommendations of the Criminal Pretrial Task Force to the Thirtieth Legislature of the State of Hawai`i (“Recommendation”) specifically says that “ISC staffing, especially when impacted by vacancies, is inadequate to meet current demands, much less any significant increased future responsibilities consistent with a high-functioning pretrial justice system. . . . Additionally, for defendants released on supervision, ISC staff must monitor compliance and report violations to the court. ISC personnel and resources need to be increased to ensure that all tasks are performed adequately.” Recommendation at 69. If a Prosecutor is going to advocate for eliminating the bail system, there needs to be an alternative to monitoring defendants. As it stands now, there is no alternative.

Tae Kim – Yes

But this is based on individual offenders' criminal abstract. All bail is to ensure defendant's compliance with court orders, including their return to court. It would be unfair to obligate a homeless person to post a cash bail but if the homeless person has history of non-compliance, the money bail maybe an only option.

Question 11. Will your office pledge to recommend for all legally permissible cases presumptive release of defendants without financial conditions attached?

Steve Alm – Yes

Please see the answer to question #10 above. Hopefully, the entire cash bail system can be replaced with one that provides alternatives like release on own recognizance, signature bonds, or supervision and services when appropriate. A good model for this is the Washington, DC Pretrial Services Agency.

RJ Brown – No

I don't know what you mean by "legally permissible cases" and, because of that, I am answering "no." If elected, office policy will dictate a recommendation of release without conditions, rebuttable only if there is clear evidence that an individual is a flight risk or threat to our community or themselves.

Jacquie Esser – Yes

Megan Kau – No

See answer to #10.

Tae Kim – Yes

Again, based on individual defendants. Defendant may be legally permissible but if he/she has history of non-compliances, which led to additional arrests and charges, it would be irresponsible to agree to presumptive release without financial conditions. But, I will always seek a viable alternative to financial conditions if the defendant is poor. Fairness for all circumstances. Prison is NOT just for POOR.

Question 12. Do you support posting all office policies and procedures on the prosecutor's website?

Steve Alm – Yes

RJ Brown – Yes

Jacquie Esser – Yes

A large organization like the Office of the Prosecuting Attorney necessarily has a large number of policies and procedures, many of which do not impact the public in a substantive way. I support putting all major policies and procedures online.

Megan Kau – Yes

I would consider posting the policies and procedures if doing so is in the best interest of the community. My concern is that the reason prosecutor's policies are not released to the general public is so that defendants do not educate themselves on how to commit crimes and avoid prosecution.

Tae Kim – Yes

Transparency!! No hidden agenda. There will not be any closed door meetings. No one is excluded. It's publicly elected office, people must have access to what's happening in criminal prosecution!! We can't serve the people without accountability. Responsible behavior starts with law enforcement, public safety demands it.

Question 13. Do you support collecting and releasing data annually on decision making?

Steve Alm – Yes

Provided that it is consistent with public safety, every effort will be made to make the decision-making by the office as transparent as possible. Restoring trust in the Prosecutor's Office is what this election is all about and both doing the right thing and being perceived as doing the right thing are both important parts of restoring that trust. Doing good data collection and analysis also requires an effective management information system that is able to capture the right data and make it available for evaluation and analysis.

RJ Brown – Yes

I think 'decision-making' is an ambiguous term, but in general, I support collecting data (for example, with respect the types of cases charged, outcomes, etc.) and publicly releasing that data on an annual basis.

Jacquie Esser – Yes

Megan Kau – Yes

If the legislature passes a bill requiring this, then yes.

Tae Kim – Yes

Without compromising pending investigations, arrests and court cases. Public Access!! People must be aware of what's happening in criminal prosecution.

[Question 14. Do you support an independent prosecuting unit for police involved shootings, sexual assault by law enforcement officers, excessive force and other police misconduct cases?](#)

Steve Alm – No

First, in these challenging financial times, I would need to evaluate if there are a sufficient number of criminal cases to warrant an entirely separate unit to prosecute police shootings, sex assaults, etc. In any case, as the Prosecuting Attorney, I am ultimately responsible for all charging and prosecutorial decisions made by the Honolulu Prosecutor's Office. That would be true whether there was a separate unit or such cases were assigned to experienced and knowledgeable deputy prosecutors in other sections of the office. (I would still be responsible either way so it would not be "independent" in that regard.) These assigned deputies would be given the responsibility for investigating and trying those types of cases which are difficult, important and necessary. I know I can do this as I did it before when I was the United States Attorney. While not common, we prosecuted police officers when it was appropriate and sent them to federal prison for the crimes they committed. I will treat these kinds of cases seriously and fairly, if I am elected the Honolulu Prosecutor.

RJ Brown – Yes

In addition, I support implementation of a Conviction Integrity Unit comprised of prosecutors, defense attorneys, retired judges, and other qualified individuals, who will be tasked with reviewing past convictions, potentially exonerating evidence, and prosecutorial misconduct. This unit will act as an independent body and will submit recommendations for my review and approval.

Jacquie Esser – Yes

Megan Kau – Yes

The State of Hawai'i Criminal Justice Division's Law Enforcement Officer Independent Review Board is tasked with this responsibility.

Tae Kim – Yes

Based on individual cases. If there's any possibilities of bias and prejudice to justice and fairness in prosecuting the cases by the prosecutor's office.

Question 15. Do you commit to not prosecuting juvenile status offenses (such as truancy curfew running away) and tobacco and vaping offenses?

Steve Alm – Yes

I don't believe status offenses like truancy, curfew, etc. should be prosecuted. When I was the Director of the District and Family Court Division at the Honolulu Prosecutor's Office, we recognized that those matters should not be the subject of criminal prosecution and stopped prosecuting them. Regarding smoking and vaping, this is a serious public health matter, but the focus of law enforcement efforts should be directed at the merchants, not the children buying or using the products.

RJ Brown – No

I don't like blanket policies that will restrict me from using my discretion to get the right thing done. As a general statement, I cannot see myself taking up deputy time with juvenile offenses such as truancy, curfew, running away, vaping, etc. But I can foresee a time, under certain circumstances, where it may be necessary to pursue such an offense if only to provide a mechanism to mandate a juvenile's participation in positive programs.

Jacquie Esser – Yes

Megan Kau – No

Juveniles should be prosecuted just like adults. If the community does not support a certain law (for example truancy), then it is the community's responsibility to vote for a legislator who will fight to remove that law. Juvenile offenders become adult offenders if their behavior is not immediately corrected. The best time to correct their behavior is before they become adults, at which point their decisions lead to a permanent record

Tae Kim – Yes

But, based on the juvenile's history of offenses, and if the law permits not prosecuting the type of offenses. Therefore, the law must be clear and I will seek to clarify any ambiguities in juvenile prosecution.

[Question 16. Do you commit to developing and implementing a community engagement plan that includes communities of color, the immigrant community based organizations and criminal legal reform advocates in the development of your first 100 day plan?](#)

Steve Alm – Yes

As the Honolulu Prosecutor, I serve the people. Part of that job is to engage with and learn from the community. I became aware during my years as the United States Attorney and then as a judge, of the importance of engaging with all parts of the community, listening to their concerns, and working with them to solve criminal justice issues and reduce crime in their neighborhoods. When you do that, you can change the system and change the community. No one ever gets anything done alone. The better approach is bringing people together and then working hard and collaboratively to solve problems. As the United States Attorney I led the effort to bring law enforcement resources together and the social service, non-profit and various community groups together to initiate the first Weed & Seed strategy in Kalihi-Palama and Chinatown. This process started by meeting community members at Kaiulani Elementary School and asking them what their concerns were regarding crime and missing services in their community. This Weed & Seed strategy in Kalihi-Palama and Chinatown, along with other efforts in the community, resulted in a reduction of crime of over 70% in three years. Felonies dropped from 3,041 down to 746, and misdemeanors from 7,686 down to 2,346. At the same time, the Weed & Seed efforts included starting an after-school tutoring program and an after-school sports program at Kaiulani Elementary School, a Head

Start program at Kukui Gardens, and a Weed & Seed Community House at Mayor Wright Homes for the neighborhood kids to study and use donated computers, and for families to meet with social service agencies when needed. If elected as the Honolulu Prosecutor, I will continue to advocate for community engagement in various neighborhoods and bring the Weed & Seed strategy back to Kalihi-Palama and Chinatown and beyond.

RJ Brown – Yes

I intend to communicate with all communities regardless of the characteristics of the community. All will be invited, and none will be restricted, from engaging with us to develop a fairer, more effective justice system.

Jacquie Esser – Yes

Megan Kau – Yes

I intend to assign two deputies as community prosecutors. They will be tasked with communicating with the community and answering questions from the community.

Tae Kim – Yes

But I will not distinguish the communities by race, color, religion, sexual preference or any other differences. I will attend all 33 different neighborhoods across City and County of Honolulu to engage with the people in that communities. I will hold regular open houses at the prosecutor's office to inform and educate the public in all public safety issues. Everyone is welcome and encourage to attend.

[Question 17. In light of the COVID 19 virus what are your thoughts on releasing vulnerable populations non violent offenders and people incarcerated simply because they cannot afford bail?](#)

Steve Alm –

At this time (Friday, May 15, 2020), I am pleased to see the hard work by the Public Defenders, the Prosecutor, the Judiciary, and Special Master Dan Foley in working together together to make appropriate releases. When they can't agree on a particular case, it goes before a judge to decide. I support that case-by-case process advocated by Special Master Foley. There are a lot of variables to consider as each person and his or her circumstances are different. These include vulnerabilities of the inmate, his or her prior record including violence, any history of absconding, the victim's interests, any substance abuse and/or mental health issues, the ability to

support him or herself, and whether or not they have a place to stay. That collaborative work should continue. Those efforts, combined with the normal workings of the jail regarding releases (e.g., defendants bailing out, finishing their sentences, or being released by the Department of Public Safety's own statutory authority) have already resulted in a reduction of the jail population of several hundred people and that should continue. The Honolulu Police Department has also been doing its part by issuing citations instead of making arrests when possible, and deferring arrests in other cases. This has markedly decreased the number of people going into jail at the front end. It is past time, and vitally important now, that all current inmates (and new admissions), ACOs, and other jail personnel be tested for the COVID-19 virus on a regular basis. We need that information to know what is really going in the jail population. There are still legitimate questions to ask about who should be released. There may be some defendants who can't currently make bail and yet should not be released because of their history of violence or absconding. I also have concerns about releasing people if they have no place to live, have no money, and are going to be homeless. Being homeless is miserable, dangerous, and difficult. Many, if not most of the defendants in jail, have substance abuse and/or mental health problems. Releasing them to the homeless world is not compassion, and would increase the likelihood of their catching the coronavirus, as well as being victimized as many homeless are. Social/physical distancing and the use of clean masks (if they can be obtained) is nearly impossible for the homeless population. I am also concerned that during this crisis, due to the physical/social distancing mandates, meaningful supervision of those in the system whether in pretrial by the Intake Service Center at the jail, or by probation officers at the court house, is almost non-existent. There is currently no drug testing being done, no in-person meetings (phone only), and many substance abuse and mental health treatment centers have largely stopped accepting new clients to protect their existing clients and staff. The Department of Public Safety should be challenged to provide physical distancing, masking, and physical hygiene opportunities of those under their supervision in the jails or elsewhere. This is a time for creativity and innovation, ensuring that the jail population, ACOs, and other jail employees are safe.

RJ Brown –

On a case-by-case basis, I support the temporary release of eligible offenders in light of the COVID-19 crisis. To be eligible, offenders should be those that are held on misdemeanor offenses, or lower, have no record of violence, and be able to establish that they have a place to live for the duration of their release. Moreover, these

offenders should be required to maintain regular contact with judiciary personnel and be willing to waive any arguments that their case should be dismissed due to delay in their prosecution.

Jacquie Esser –

This is the only rational, fair and just solution. The job of the prosecutor is public safety and that extends to people in our jail and prison facilities.

Megan Kau –

I don't believe releasing inmates solely because of the pandemic is in the best interest of public safety. A judge has already ruled that this defendant should not be released into the community—because he/she is a flight risk and/or because he/she is likely to re-offend. Being in the midst of a pandemic does not change those factors. If the defendant is at risk of death because he/she has a pre-existing medical condition, the trial judge may consider that on a case-by-case basis to address that risk. Otherwise, the Department of the Public Safety has its own policies in place to deal with this type of situation. Inmates are safer in a facility and the community is safer while inmates are in a facility.

Tae Kim –

I am not oppose to releasing non-violent offenders, but there's must be a defined place of their release with conditions (none financial). Regular check-in/contact with a court officer or probation officer. I would not be supportive of defendant's release to streets. This is irresponsible and poses danger to defendants and to public safety, in light of the COVID.