

PA PAC Questionnaire for District Attorney Candidates – 2022

Please return the completed form along with your resume or biographical statement describing education, work history, community service, and prior political experience, as well as a high-resolution headshot of yourself as soon as possible or no later than Saturday, Mar 19th at 5pm.

Please e-mail your responses to PAC Coordinators at papacboard@googlegroups.com by Saturday, March 19th at 5pm.

Please note that following the Saturday, March 19th at 5pm deadline, the People's Alliance PAC may publish both your responses to this questionnaire and your resume.

When answering this questionnaire, please repeat the questions in your response document with each question numbered and organized as it appears here. Type your responses in italics, bold, or a different font to distinguish your responses from the questions. Do not use colors or shading. Please try to confine your responses to no more than 300 words unless another word limit is indicated. Do not feel obliged to exhaust the limit for each question.

If you use words or ideas from another person, please attribute your source.

Thank you for completing this questionnaire and for your willingness to serve the people of Durham.

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About you:

1. Please describe if and how your religious and philosophical beliefs may affect your conduct and decision-making if you are elected.

I am a firm believer in the separation of church and state, and I believe government should be secular. My belief is that all people are equal, and should be treated as such. However, I also believe we do need to recognize each individual for who they are, and how they present, and make sure that we are conscious of what makes them who they are, and are cognizant that we don't let any differences or inherent qualities they may have affect how they are treated. It's trite to say justice should be blind – it shouldn't, saying you don't see race, or don't see gender, means you are ignoring significant issues in society and the justice system, or at least refusing to acknowledge them. My philosophy is that we need to take each person as they are, look to what brought them to where they are in the criminal justice system, and work to find a just and appropriate consequence for their actions that protects society and the victim, while also never forgetting the humanity of the person before us.

2. Please describe a situation in which you took a controversial position and explain how you handled it.

That's a hard question to answer because a lot depends on how you define controversial. Many positions I have taken are controversial to people with a different political viewpoint or belief system than my own, but they are not controversial to those who share my perspective. Being a criminal defense attorney, especially one who specializes in high-level felonies, a lot of people consider the positions I take to be controversial. When I've taken a position that people have questioned, I handle it by being prepared to defend my position and explain why I took that position. I'm always open to questioning about my positions, and am always ready to defend my position, while also being willing to keep an open mind if there are new or different facts that may change my opinion. The key is treating everyone with respect, and being willing to listen to their ideas (so long as their ideas and views are based in reality and facts and not some belief that discrimination or stereotypes are somehow correct), and be willing to defend my position, and possibly modify it as new evidence emerges.

3. Why should progressive voters support you? What expertise do you bring to your race?

Progressives should support me because I am progressive, and believe in the need for non-discrimination and criminal justice reform. I have worked in criminal defense, primarily indigent criminal defense, for over fifteen years, so I understand the issues faced by the most marginalized defendants in our system, and have seen the consequences of overpolicing and the racially biased justice system up close. Prior to law school, I worked in healthcare, where I managed large organizations, and also saw that racial bias exists in many areas, not just the legal system. I also happen to have close ties to law enforcement, given that my wife was in law enforcement for twenty-two years (17 with DPD, 5 with DCSO) before retiring this past December, so I can help bring them to the table to work on reforms.

Long-term, we all have the same goals, the key is how we get there in the short-term, and I have the expertise and vision to make sure that we enact criminal justice reform in a way that still keeps society safe, and makes sure the victims have a voice and are protected. While people often try to paint large differences in positions, to me, the main disagreement is how we get there, not what the ultimate goal is.

4. Please describe your involvement in civic and professional organizations, noting any offices you may have held.

While I have not generally been heavily involved in formal civic and professional organizations, I have always been active in improving my profession, and advocating for changes in the community. I am the current President of the Durham County Private Defense Bar, and the Private Assigned Counsel (Indigent Defense) Bar, but even prior to those official positions, I have been active in working with the various participants in the criminal justice system to make it better for all. I was also a member of the North Carolina Language Access Subcommittee which developed the policies and procedures currently used in North Carolina to make sure that everyone has access to the court system, for all proceedings, not just criminal, regardless of their language needs. I have also been a member of the Durham County Pre-Trial release group to help develop changes in our pre-trial release policies to make sure that people are not being incarcerated simply because they are poor. I have also always mentored newer attorneys to help them grow in the profession. I have also been an ex officio member of various IDS committees and workgroups to help improve Indigent Defense in North Carolina. I also often teach various CLEs.

About your practice of law:

5. Please describe your practice as a lawyer. Describe the areas of your practice and your specialties. If, over time, your practice has evolved or changed, describe the changes. Describe your various client bases as a part of your answer.

My current practice is a solo law firm focused primarily on indigent criminal defense. While I will certainly take private cases, as well as civil cases, the vast majority of my practice is indigent criminal defense, and so the majority of my client base is individuals charged with crimes (adult or juvenile) who cannot afford attorneys. While I handle anything from speeding tickets to capital murder, my main focus is on higher-level felonies.

Given my background, when I first went to law school, I had always assumed I would focus on healthcare law, corporate law, and civil law, and when I first started, that was my primary focus. However, once I started my own firm and began to do court appointed legal work as a way to get experience and cover expenses, I discovered that is where I wanted to focus. I like dealing with people, not paper, and I like trying to make a difference, and criminal defense, especially indigent criminal defense, provides the best opportunity for that. I also am fortunate that I am able to largely focus just on Durham County, so while I will take homicides, or a few high-level felonies out of county, the vast majority of my work is in Durham, so I am always here, always available, and am in a position to make the best impact.

6. Please describe the nature and extent of any pro bono legal work or other volunteer work you have done which best illustrates your values as a lawyer and as a person.

While it is not technically pro bono or volunteer, I think the fact that I have largely dedicated my practice to indigent work helps illustrate my values as a lawyer and a person. I also make sure that when I do take private pay cases, I set rates very close to the same rates I get for indigent clients, because people shouldn't go bankrupt trying to afford quality legal services. I could make a lot more money if I focused on private pay cases, since you can make as much money on 1 private felony as dozens of indigent felonies, but even many of those clients really can't afford the representation, they just don't understand the system and often believe they have to pay to get a positive outcome, because they don't realize the quality of indigent defense attorneys in Durham. I also no longer take expunction cases, minor drug cases, or driver's license restoration, because Durham provides services that can assist those individuals, and so rather than take their money just because I can, I refer them to the free services, and tell them to come back if there is an issue, which is rare.

7. Have you ever been the subject of a complaint to the North Carolina State Bar or the North Carolina Judicial Standards Commission? If the answer is yes, please explain the circumstances and the outcome.

Have I ever been the subject of a complaint? I'm sure, given the practice of law, people like to complain. I have never been the subject of a valid or sustained complaint. The two complaints that I remember are one filed by a man named Spencer Young, who eventually sued me and 25 others (including the Governors and Attorneys General of Florida and North Carolina, multiples judges, and others) for \$250 million because he said we conspired to steal his money and violate his rights. I was involved because I represented him on some minor criminal charges in Durham, which I got dismissed, and he felt I should have filed this lawsuit for him. It was subsequently dismissed by the Judge without requiring any answers. The background can be found at www.morganstanleygate.com.

The other case that I can recall was when I was appointed Guardian Ad Litem in an incompetency proceeding. I suspected that the petitioner/current caregiver was engaged in fraud and abuse, and reported her to law enforcement and the Department of Social Services (I represent the best interests of the Ward), and she filed a complaint with the Bar claiming a bunch of deficiencies in representation and other things, but the Bar closed it as soon as we forwarded the reports from law enforcement and DSS which substantiated the abuse and removed the ward from her care, and returned her to her family.

The District Attorney's Office:

8. If elected, in what ways will your office address and meaningfully impact the crime rate in Durham?

I would make it clear that the focus on violent crime isn't just a talking point and the occasional press release, but an actual priority in the office. Right now there is a perception on the street that you can get away with crime in Durham, even violent/gun crimes, and I would make sure that perception is changed. We absolutely need criminal justice reform, but we need to make sure that we also recognize that violent crime, and crimes that put human victims at risk, are different, and need to be treated as such. Right now when people are arrested with a firearm, their first question is if the Feds are looking at the case, and when they are told there is no Federal interest, they are happy, and often state that means they are just gonna get out quickly and face no consequences. That needs to change.

I would also make sure that we focus on appropriate outcomes and consequences, not just convictions. It's easy to say that we have more homicide convictions in 2019, 2020, and 2021 than we did in 2017 and 2018, but that is a meaningless statistic/claim. Convictions are easy, offer a lenient enough plea and you could achieve a 100% conviction rate, and close the entire backlog of cases within a week. We need to make sure the pleas are just.

I would also make sure to re-establish trust and working relationships with law enforcement to make sure that cases are investigated and charged appropriately, and work with law enforcement to focus their efforts on the critical areas, especially in times like now when they are facing their own severe staffing issues.

Unfortunately, major components of the crime rate are the result of societal matters well outside the purview of the District Attorney's office, such as lack of stable housing, jobs, access to mental health/substance abuse, lack of quality education, and the rest, but the DA can use their bully pulpit to advocate for resources in those areas, and I would. Ultimately the DA needs to remember that they are NOT the advocate for the Defense, that's why we have a very strong Public Defender's Office, and a strong defense bar. The DA needs to be open to information from the Defense, but needs to stay focused on victims and society.

9. Please describe your experience managing a large staff of professional and non-professional employees.

Prior to law school I worked in Hospital administration where I managed 50+ employees, and a multi-million dollar budget.

10. What is the single most important challenge facing the Durham County District Attorney's Office? What will you do to address it?

The single most important challenge facing the DA's office is the increase in violent crime in Durham over the past few years. Rather than restate what I would do to address it, I would refer you to my response to question 8, which largely covers what is needed. We need a real focus on violent crime, real involvement with victims, and real coordination with law enforcement.

11. What policies, training, hiring practices, or other measures will you implement to address the disparate prosecution of people of color and people who are poor in our criminal justice system?

I would continue the policies that have been in place in the Durham County District Attorneys office for at least the last 5 or 6 years to promote racial equity training and monitoring of outcomes to make sure we are not disparate in our prosecution. I would also advocate for expanded resources for the communities (preferably prior to involvement with the criminal justice system) to stop the underlying issues that lead to their involvement. I would make sure that pleas/outcomes are based on the actions of the defendant, not their economic status or race, and would provide as many alternative outcomes as possible that are not dependent upon their ability to pay.

Concerning law and policy:

12. How can our legal system be more equitable and accessible to all?

Unfortunately, that's a difficult question. One way is to make sure that attorneys who provide indigent defense are adequately compensated so that more people will focus on that work. Private attorneys often charge \$750, 1,000, or more for misdemeanors that are handled by court appointed attorneys for a fraction of that cost. We need to educate the public that court appointed lawyers are "real" lawyers, and people should be willing to accept that help, as opposed to spending inordinate amounts of money out of the false belief that is necessary for quality representation. We also need to push for expanded resources. Unfortunately, right now for individuals who don't have financial resources, the best mental health and substance abuse they can access for free is in the Durham County Jail, or through the criminal justice system. The DA can advocate for these issues and make sure that they are trying to provide low/no cost option for people who are charged with crimes to still deal with the appropriate consequences, but it's a much larger societal issue to make it fair.

13. What, if anything, will you do to minimize the impact of immigration consequences in our community on justice-involved people? Specifically, please address the impact of Class H and I felony convictions on removability and deportability, given NC structured sentencing guidelines, and how this may impact your prosecutorial decisions and plea bargaining.

Ultimately, the responsibility of the DA is to focus on the victim and society, not the Defendant. That said, the goal is appropriate consequences for actions, which at times may require incarceration and/or deportation for people, but often does not. As DA, I would make sure that decisions are based on the specific circumstances of the defendant. You can't have blanket policies, because what may be an appropriate outcome for an individual who is here legally may not be an appropriate outcome for someone who would face deportation as a result of the conviction. I would make sure we are cognizant of immigration consequences and open to listening to alternatives that would still provide appropriate consequences for the wrongdoing, but would not excessively punish someone just because of their immigration status. A major example is formal v informal deferrals – formal deferrals often require an admission of responsibility, which immigration courts treat as a conviction, even if the charge is dismissed. Discretion and plea bargaining need to be geared towards appropriate consequences for actions, not black-line rules that X will result in Y.

14. What can be done to address the impact of DWLR or No Operators License convictions?

From the District Attorney's Office standpoint, we can focus on the charges, and look for alternatives to conviction in appropriate cases, with things such as driving school, community service, or other options. Unfortunately, the General Assembly has made the policy decision that undocumented individuals simply cannot get a license, which leads to a proliferation of these charges. I think you need to make sure to look behind the charge and see why the license was revoked (or why they did not have one), and the circumstances of their driving at the time of their charge. Was the person driving to support themselves or their family (be it work, school, groceries, medical, whatever), or for other reasons. And,

were they speeding, driving while impaired, or something similar, or were they otherwise safe, and were they properly insured (which you can do without a license)? As noted elsewhere, you look at the individual circumstance and try to come up with appropriate consequences. You cannot have blanket policies, but you also need to make sure that a conviction does not lead to the start of a spiral to unintended consequences well beyond those warranted for that offense.

15. What types of crimes should be prioritized for prosecution?

The crimes that should be prioritized are violent crimes where there is a victim (or society) placed at risk, especially crimes where a firearm or other weapon is used.

16. How can the District Attorney's Office improve its support of victims of crimes?

They can start by communicating with them. A frequent complaint heard is that the DAs office is currently more focused on advocating for the Defendants than the victims, and that victims are not kept in the loop. While victims cannot dictate the outcome of a case, their voices should be heard. The DAs office needs to make sure that they actually try to contact victims and not simply say "we sent a letter a few weeks ago, and maybe tried to call them this morning." They need to make sure victims understand the process, and are given appropriate time to ask questions and understand the process.

17. How can the efficiency of District Court be improved? Superior Court?

A major key would be to have actual supervisors. Right now the DA's office is geared around "team" in various areas, which can be ok for isolated cases, but there is no real communication between the various teams, and Defendants often have cases being handled by different teams, so it's difficult to know what is going on with the case. It's bizarre to sit through a calendar call and the person calling the calendar literally has no idea what is going on with the various cases unless/until the ADA speaks up. This should all be done ahead of time. The current DAs office is far and away the least efficient office I am aware of in the last 15+ years I have been practicing, and is also the first one with no District Court Supervisor, or Chief ADA, who supervises Superior Court and with a DA who is in the office less than one day a week. It can be improved through basic management – put someone in place whose job is to coordinate and communicate. Make sure that someone in that office knows what is going on and who can effectively communicate that out, and plan the calendars.

18. What are the shortcomings of law enforcement in Durham? What can be done to correct them? Specifically, please address the interaction of the DA's office with DPD and the Sheriff's Department.

Law enforcement in Durham has made great strides in being proactive, modern, and progressive. They often get painted with the national brush and are accused of actions of "police" that have no relevance to Durham. That said, a major shortcoming is the lack of staffing, but that's beyond the scope of the DA's office to address. What the DA's office can do is effectively communicate with law enforcement so that officers know when cases are coming up, and are ready. The DA's office also needs to make sure they review the cases in sufficient time to discuss them with law enforcement and correct any deficiencies in the case and/or conduct further investigation. The current DAs office and law enforcement do not have a relationship built upon mutual respect and trust, and that needs to change. The

DA's office relies on law enforcement to investigate cases and bring charges, and they need to work together to make sure that law enforcement is doing their job correctly, and that the priorities are lined up.

19. What do you think of economic justice within the context of the justice system? Please address prosecutors' role in setting bail and in seeking fines, fees and restitution in your response.

The District Attorney does not have a direct role in setting bail, they can recommend, but at the end of the day, only a judicial official (magistrate or judge) can set the actual bond. That said, the DA can make sure that they provide full information to the Court to make appropriate decisions on bail. As noted above, I have been working for several years as a member of the working group helping set those policies for Durham. The DA does need to make sure that their office reviews cases in a timely fashion because often bond is a product of the charges, and if someone is overcharged, or a victim has reached out with additional information, the DA needs to make sure that information is processed and communicated to the appropriate parties in the system to make sure that bond can be addressed in a timely manner.

I don't believe the DA's office should seek fines in most cases, that is something that is in the discretion of the Judge, and the DA's office should leave it there. Restitution is money owed to the victim of the crime, and the DA's office does need to make sure that the victim is protected and treated fairly. If the defendant has an ability to pay restitution, that should absolutely be pursued. If they do not, the DA's office needs to make sure the victim is informed about resources to seek compensation.

It's a sad statement on society that we use flat economic measures to punish crime. By definition that creates a disparate impact based solely upon ability to pay. The DA's office should be open to alternatives, and should not oppose alternatives, but ultimately the decision on waiving costs, fine, and the rest is in the sole discretion of the Court. The DA's office should not object to any such requests, but does not have an ability to compel them either.

20. How has the COVID-19 pandemic changed the functions of the position you occupy or are seeking?

It seems to have changed the function of the DA's office much more than it should. While it is nice that a directive came down that the ADAs did not need to come to the courthouse all that much, there doesn't seem to be any follow-up to make sure they are actually working from home, and that there aren't adverse consequences on cases. Unfortunately it's been all too common to have an ADA say they would agree to X or Y which could get a client out of custody, but that since it wasn't their day to go to Court until next week, it would have to wait. I was never able to just stop working – I went to Court almost every day/week to address those cases where clients were in custody, and we could change that status. The same should have been true of the DA's office.

COVID has caused a backlog of court-time, but we are working through that. But, the time away from court should have been used to review all the cases and work through them so that they were ready for resolution, and if there are future shutdowns if I am in office, I will make sure the time is used productively, and not as paid time off.

21. As District Attorney, how would you make the prosecutors in your office more accessible to victims, defendants, and defense attorneys?

Well, I don't think the prosecutor should be more accessible to defendants, there should be no contact between the prosecutor and the defendant, except in the isolated cases where a defendant has chosen to represent themselves. That said, I would change the current phone system so that it rings to

a receptionist, and you don't have to wait close to 1 minute to even have the option of attempting to reach a receptionist, who is often not there since the front desk is not fully staffed, even during business hours. I would require the prosecutors to provide their e-mail addresses and direct-dial phone numbers to victims and defense attorneys, and would make sure to take any complaints of non-responsiveness seriously. Unfortunately in the current office, it is not unusual to have e-mails or voicemails ignored, if you can even find the right number to call. I would remind the office that they serve the victims and need to be accessible and available, and that if they want to resolve cases, they have to respond to defense attorneys.

Your politics:

22. For whom did you vote in the 2020 United States Senate and presidential elections?

In the General Election: Cal Cunningham and Joe Biden.

Again, thank you. **Please do not forget to provide us with your headshot and a resume or biographical statement.**