

Justice for All: End Borough Bias



Public Advocate Powers: Advocacy and Coalition-building; Programmatic Oversight; Taking and Resolving Complaints

As City Council Speaker, Melissa made criminal justice reform one of her top priorities. In 2016, under her leadership the City Council passed a raft of reform bills called the Criminal Justice Reform Act (CJRA). Before, too much emphasis was placed on an outdated and wrong policy of over-criminalizing small offenses — a policy that hurt communities of color. This approach was changed after the CJRA, which lowered penalties for low-level, non-violent offenses. One year after its passage, there was a 90 percent drop in the number of criminal summonses issued, saving tens of thousands of New Yorkers from going through the criminal justice system and having a permanent criminal record.

Passage of the CJRA resulted in real, measurable progress. But there is more to be done, and focusing on the policies of the city's five District Attorneys is the next logical step. In New York City, each borough has its own District Attorney, and as each borough's top prosecutor, DAs set policies and procedures for the prosecution of criminal offenses. Prosecutors have a wide degree of discretion in how they approach certain offenses or individual cases. They make decisions about what charges to bring, if they will offer a plea deal or alternatives to incarceration — decisions that can leave a permanent mark on an individual's record.

There are differences in how each of the city's five DAs prosecute certain offenses, and these differences can have a big impact on the outcome of a case. The result is that two people who are arrested for the same kind of offense, but in different boroughs, may have completely different outcomes.

When it comes to prosecuting offenses that are not a direct threat to public safety, such as marijuana possession or fare evasion, the decisions made by individual DAs can either uphold the status quo — mass incarceration and racial disparities — or push forward for fairness and reform. The decision to prosecute, or to not prosecute, can mean the difference between an individual landing a job, getting an apartment, or pursuing higher education.

Recognizing the injustice of racial disparities in criminal arrests for marijuana possession, both the District Attorneys for Manhattan and Brooklyn now decline to prosecute these cases a majority of the time. They've done the same for smoking in public. Both moved to vacate prior arrest warrants for marijuana possession, clearing thousands of New Yorkers from the mark on their criminal records.

The remaining DAs have not embraced these sensible reforms. The Queens and Staten Island DAs have said they were waiting for a police department review.¹ The Bronx DA is waiting for NY State to legalize marijuana before setting the same policy as the Brooklyn DA and Manhattan DA.²

Similarly, for fare evasion, the Manhattan DA has instituted a "decline to prosecute" policy, and the number of cases prosecuted fell by 95% in the first year. While at the time the Brooklyn District Attorney said he would follow up with his own plan, no announcement about the new policy has been made. The same goes for the Queens District Attorney. The Queens DA said, "We will continue to prosecute those cases that the NYPD brings us in Queens until we see a sound reason not to."³

District Attorneys may also differ in the way that they actively prosecute cases such as police misconduct, or how aggressively they prosecute drunk driving and hit-and run offenders.

As Public Advocate, Melissa will bring these discrepancies to light and fight for one equal and consistent criminal justice system. Where discrepancies exist, Melissa will push the DAs to account for their approach, emphasizing the impact of their policies on communities of color.

Through hearings and advocacy for state legislation, Melissa will put prosecutorial policies forward that advance the cause of criminal justice reform.

Melissa will create a tracker to show how the DAs differ in their prosecution of certain offenses, as well as their policies related to early discovery and other crucial reforms. Melissa will advocate for all five DAs to adopt policies that will help end mass incarceration and racial disparities. She will also take complaints from New Yorkers on their treatment in the criminal justice system.

District Attorney's across the City have different policies that determine whether an infraction is something they will prosecute.

¹ <https://www.nydailynews.com/new-york/staten-island-da-won-stop-prosecuting-marijuana-charges-article-1.3993096>

² <https://thebronxchronicle.com/2018/09/10/statement-from-bronx-da-clark-on-marijuana-decriminalizing/>

³

http://www.qchron.com/editions/queenswide/da-brown-sticking-to-fare-evasion-policy/article_5069d765-8a12-515a-9c97-4466ffb29824.html

Prosecution of low-level cases of marijuana offenses:

Borough	Low-level possession	Smoking in Public	Vacate warrants for prior arrest
Brooklyn	Does not prosecute	Does not prosecute	Yes
Bronx	Waiting for NY State to decriminalize⁴	Waiting for NY State to decriminalize⁵	No⁶
Manhattan	Does not prosecute	Does not prosecute	Yes
Queens	Prosecutes⁷	Prosecutes⁸	No
Staten Island	Prosecutes⁹	Prosecutes¹⁰	No

⁴ <https://thebronxchronicle.com/2018/09/10/statement-from-bronx-da-clark-on-marijuana-decriminalizing/>

⁵ <https://thebronxchronicle.com/2018/09/10/statement-from-bronx-da-clark-on-marijuana-decriminalizing/>

⁶ <https://apnews.com/7ad067665eda4d4bad3455ec802a6327>

⁷ <https://patch.com/new-york/kew-gardens-briarwood/queens-da-rejects-lawmakers-plea-stop-prosecuting-pot-charges>

⁸ <https://www.nytimes.com/2019/01/09/nyregion/queens-district-attorney-richard-brown.html>

⁹ <https://www.nytimes.com/2018/09/07/nyregion/nyc-marijuana-laws.html>

¹⁰ <https://www.nytimes.com/2018/09/07/nyregion/nyc-marijuana-laws.html>